



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 18-02206
)
Applicant for Security Clearance)

Appearances

For Government: Kelly M. Folks, Esq., Department Counsel
For Applicant: *Pro se*

07/01/2019

Decision

HARVEY, Mark, Administrative Judge:

Applicant refuted the allegation that she has a connection to the Kingdom of Bahrain (Bahrain); however, she continues to have strong connections to the Kingdom of Jordan (Jordan). Foreign influence security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On October 12, 2017, Applicant completed and signed a Questionnaire for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On February 7, 2019, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a

security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline B (foreign influence).

On March 11, 2019, Applicant responded to the SOR and requested a hearing. (HE 3) On March 22, 2019, Department Counsel was ready to proceed. On May 2, 2019, the case was assigned to me. On May 29, 2019, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for June 6, 2019. (HE 1) Applicant's hearing was held as scheduled.

During the hearing, Department Counsel offered four exhibits; there were no objections; and all proffered exhibits were admitted into evidence. (Transcript (Tr.) 15-16; Government Exhibit (GE) 1-4). Applicant did not offer any exhibits. (Tr. 18) On June 17, 2019, DOHA received a transcript of the hearing.

Procedural Rulings

Department Counsel offered summaries for administrative notice concerning foreign influence security concerns raised by Applicant's connections to Jordan and Bahrain. (Tr. 15-16; HE 4-5) Applicant did not object to me taking administrative notice of those facts, and I granted Department Counsel's motion. (Tr. 17) Administrative or official notice is the appropriate type of notice used for administrative proceedings. See ISCR Case No. 16-02522 at 2-3 (App. Bd. July 12, 2017); ISCR Case No. 05-11292 at 4 n. 1 (App. Bd. Apr. 12, 2007); ISCR Case No. 02-24875 at 2 (App. Bd. Oct. 12, 2006) (citing ISCR Case No. 02-18668 at 3 (App. Bd. Feb. 10, 2004) and *McLeod v. Immigration and Naturalization Service*, 802 F.2d 89, 93 n. 4 (3d Cir. 1986)). Usually administrative notice at ISCR proceedings is accorded to facts that are either well known or from government reports. See Stein, *ADMINISTRATIVE LAW*, Section 25.01 (Bender & Co. 2006) (listing fifteen types of facts for administrative notice). Portions of the Department Counsel's requests are quoted without quotation marks and footnotes.

The first paragraph and the last paragraph of the Jordan section are taken from U.S. State Department Background Notes and fact sheets, <https://2001-2009.state.gov/p/sca/ci/af/>; <https://2009-2017.state.gov/outofdate/bgn/jordan/192420.htm>. (Tr. 16; HE 6) The other paragraphs regarding Jordan are from Department Counsel's administrative notice requests (quotation marks, bullet symbols, and internal footnotes are omitted).

The facts in this decision do not specifically describe employment, names of witnesses, names of other groups, or locations in order to protect Applicant and her family's privacy. The cited sources contain more specific information.

Findings of Fact

Applicant partially admitted and partially denied, or she fully admitted all of the SOR allegations. (HE 3) She also provided mitigating information. (HE 3) Her admissions

are incorporated herein as findings of fact. After a complete and thorough review of the evidence of record, I make the following findings of fact.

Applicant is 32 years old, and she is seeking a security clearance to improve her employment opportunities as a translator. (Tr. 5, 24; GE 1) For the last five years and currently, she has been a freelance translator. (Tr. 23) In 2004, she graduated from a high school in the United States. (Tr. 5) In 2013, she received an associate's degree in business in the United States, and she is currently taking courses towards a bachelor's degree in accounting in the United States. (Tr. 6) In 2002, she married, and in 2005, she divorced. (Tr. 6) In 2010 she married, and her three children are ages two, four, and six. (Tr. 6-7) She has not served in the military of any country.

Applicant's spouse and three children are U.S. citizens, and they reside in the United States. (Tr. 7; GE 1) In 2000, Applicant immigrated to the United States when she was 13 years old. (Tr. 20) Applicant obtained U.S. citizenship because of her father's status as a U.S. citizen. (Tr. 20) In 2006, her father passed away. (Tr. 20, 48) In 2011, her mother passed away. (Tr. 52)

On Applicant's security clearance application, she said she was unwilling to renounce her Jordanian citizenship; however, now she is willing to renounce her Jordanian citizenship "[i]f it is mandatory to grant [her a] security clearance." (Tr. 21) In response to the question whether she "consider[s] Jordan to be home," she said "[t]hat's where I was born." (Tr. 21) In her counterintelligence interview, she said that she may retire in Jordan because her father retired there. (GE 3 at 4) She described Jordan as "my country." (GE 3 at 4) She retains a Jordanian passport, and she used it as recently as three months before her hearing. (Tr. 21-22)

Applicant lived in Jordan from April 2018 to March 2019 (11 months). (Tr. 22) Applicant and her spouse and children went to Jordan in April 2018 because her husband was unemployed, and they believed they could stabilize their finances by living in Jordan. (Tr. 22) Her husband did not find employment in Jordan, and they were financially supported by her husband's brothers. (Tr. 54) Her husband has five brothers in Jordan, and none of them work for the Jordanian government or military. (Tr. 54-55) Her husband currently has employment in the United States in the private sector. (Tr. 22, 53)

The SOR raises the following foreign influence security concerns:

SOR ¶ 1.a alleges that three of Applicant's sisters are citizens of and residents in Jordan. (Tr. 25, 37-38) One sister does not work outside of her home, another sister is a dentist, and the third sister is a part-time, semi-retired engineer. (Tr. 26, 29, 32) Their husbands do not work for the Jordanian government or military. (Tr. 52) One sister residing in Jordan is a dual citizen of the United States and Jordan. (Tr. 36-37) She communicates with her sisters by telephone on about a monthly basis. (Tr. 27, 33) One of her sisters is aware that Applicant is seeking a security clearance and that she is a linguist. (Tr. 28, 39)

SOR ¶ 1.b alleges one of Applicant's sisters is a dual citizen of Jordan and the United States and a resident in Jordan. This sister has a green card and now lives in the United States. (Tr. 34-35, 37)

SOR ¶¶ 1.c and 1.d allege Applicant's father-in-law and mother-in-law are citizens and residents of Jordan. (Tr. 39-40) Her father-in-law is retired, and her mother-in-law does not work outside her home. (Tr. 40, 42) When she visited Jordan from April 2018 to March 2019, Applicant and her family lived in an apartment above her parents-in-law's residence. (Tr. 40, 52) Her father-in-law owns the whole building where they lived in Jordan. (Tr. 53) She has about weekly contact with her parents-in-law. (Tr. 41, 43)

SOR ¶ 1.e alleges Applicant's brother holds an important position as an employee of the Bahrain government, and he resides in that country. (Tr. 44) Applicant's brother is a U.S. citizen. (Tr. 60-61) He received a Ph.D. from a U.S. university. (Tr. 60-61) He owns an apartment in Jordan. (GE 3 at 12) Applicant believed her brother applied for a position in the government of Bahrain; however, Applicant was not aware of whether he actually received or currently occupies the position. (Tr. 44-45) She is not close to her brother, and she had infrequent contact with him on holidays. (Tr. 45-46) She has not had in-person contact with him for about three years. (Tr. 46) Applicant has refuted the allegation that she has a connection to Bahrain, and connections to Bahrain will not be further discussed in this decision.

SOR ¶ 1.f alleges that Applicant spent about 70 months in Jordan between February 2005 and September 2016 after she became a U.S. citizen. (Tr. 47) After her divorce in 2005, she went to Jordan to receive support from her family. (Tr. 48) After her father died in 2006, she went to Jordan to support her mother. (Tr. 48) After she was married the second time in 2010, she went to Jordan and United Arab Emirates because of her husband's employment. (Tr. 48)

Applicant indicated her loyalty was split 50-50 between the United States and Jordan. (Tr. 49; GE 4 at 1) She was never in a position where she needed to choose one country over the other. (Tr. 49-50) She uses her Jordanian passport to enter Jordan and her U.S. passport to enter the United States. (Tr. 57) It is more convenient and less expensive to use her Jordanian passport to enter Jordan. (Tr. 57) If it was mandatory for her to surrender her Jordanian passport to obtain a security clearance, she is willing to do so. (Tr. 59)

Applicant has contact with her family through WhatsApp, a computer application that enables one to communicate with a group of people, including sending pictures and videos at the same time. (Tr. 46-47) Someone in her family group, which includes her sisters, will normally send a message on WhatsApp about once a week. (Tr. 51)

Applicant has three sisters, two brothers, and eight nieces and nephews who live in the United States. (Tr. 55-56) She has a bank account in the United States and no bank account in Jordan. (Tr. 57)

Applicant emphasized that the status of her relatives was outside of her control. (Tr. 14-15, 19, 59) She should not have her security clearance denied because of

decisions her relatives made. (Tr. 14, 19) Applicant's husband prefers to live in Jordan because he misses his family in Jordan, and Applicant prefers to live in the United States. (Tr. 48-50) She plans to return to Jordan for visits. (Tr. 50)

Jordan

In 2013 and 2014, the U.S. provided Jordan \$2.25 billion in loan guarantees, allowing Jordan access to affordable financing from international capital markets. The U.S.-Jordan free trade agreement (FTA), the U.S.'s first FTA with an Arab country, has expanded the trade relationship by reducing barriers for services, providing cutting-edge protection for intellectual property, ensuring regulatory transparency, and requiring effective labor and environmental enforcement. The United States and Jordan have an "open skies" civil aviation agreement; a bilateral investment treaty; a science and technology cooperation agreement; and a memorandum of understanding on nuclear energy cooperation. Such agreements bolster efforts to help diversify Jordan's economy and promote growth. Jordan and the United States belong to a number of the same international organizations, including the United Nations, International Monetary Fund, World Bank, and World Trade Organization. Jordan also is a Partner for Cooperation with the Organization for Security and Cooperation in Europe.

The Hashemite Kingdom of Jordan (Jordan) is a constitutional monarchy ruled by King Abdullah II bin Hussein.

The threat of terrorism remains high in Jordan. The U.S. Department of State has assessed Amman, Jordan's capital, as being a high-threat location for terrorist activity directed at or affecting official U.S. Government interests. Transnational and indigenous terrorist groups in Jordan have demonstrated the capability to plan and implement attacks. Violent extremist groups in Syria and Iraq, including the Islamic State of Iraq and ash-Sham (ISIS) and Jabhat al-Nusra, have conducted attacks in Jordan and continue to plot against local security forces, U.S. and Western interests, and soft targets such as high-profile public events, hotels, places of worship, restaurants, schools, and malls. Jordan's prominent role in the effort to defeat ISIS, and its shared borders with Iraq and Syria, increase the potential for future terrorist incidents.

Although Jordan remained a committed partner on counterterrorism and countering violent extremism, numerous terrorist incidents reflect the current security situation in Jordan: throughout 2017, multiple vehicle-borne improvised explosive devices detonated in and around a refugee camp in Syria near the Jordanian border; and in October 2017, two homemade explosive devices were found in another refugee camp in Jordan. Also in October 2017, the State Security Court prosecuted six people for sympathizing with ISIS, after they created social media accounts to find Jordanian supporters for ISIS and promote terrorist activity. In September 2017, the State Security Court charged 16 people with a terrorist plot involving the use of automatic weapons to carry out terrorist attacks against public security services; and the Jordanian General Intelligence Directorate arrested a 10-person ISIS cell that was planning to attack security forces and tourist locations using explosive suicide belts. In 2017, the amount of terrorist activity in Jordan was less than in previous years.

U.S. involvement in Iraq and Syria, and the U.S. Government's policies on Israel, have fueled anti-American feelings in Jordan. Recent surveys reflect that over 80% of the Jordanian population have an unfavorable view of the U.S. Government. In December 2017, protests took place at the U.S. Embassy for 27 days after the announcement that the U.S. Embassy in Tel Aviv would move to Jerusalem.

In 2017, Jordan's most significant continuing human rights issues included allegations of torture by security and government officials; arbitrary arrest and detention, including of activists and journalists; infringements on privacy rights; restrictions on freedom of expression; and restrictions on freedom of association and assembly. Impunity remained widespread, and the government did not take sufficiently strong steps to investigate, prosecute, or punish officials who committed abuses.

The Jordanian SSC took legal action against numerous individuals deemed to be terrorists under local law, including the arrest and prosecution of men accused of seeking to join Al-Nusra Front (ANF) and ISIS. Other arrests and prosecutions involved supporting/recruiting for ISIS and attempted travel to/from Syria in support of extremist activities and also for "propagating ISIL ideology," a charge often used for online activity.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be

a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and DNI have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about “foreign contacts and interests” stating:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

AG ¶ 7 has conditions that could raise a security concern and may be disqualifying in this case:

(a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology; and

(e) shared living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

As to SOR ¶ 1.b, Applicant's sister now resides in the United States, and Applicant's relationship with her no longer causes a security concern. As to SOR ¶ 1.e, Applicant's brother may not live in Bahrain, and even if he does live in Bahrain, he may not hold a position in the Bahrain government. SOR ¶¶ 1.b and 1.e are refuted.

Applicant admitted the allegations in SOR ¶¶ 1.a, 1.c, 1.d, and 1.f in her SOR response and at her hearing. Her three sisters and parents-in-law are citizens of and residents in Jordan. She resided in Jordan for about 70 months from February 2005 to 2016 after becoming a citizen of the United States. She has frequent contacts with these five relatives living in Jordan. Her frequent contacts are manifestations of her care and concern for relatives living in Jordan.

When an allegation under a disqualifying condition is established, "the Directive presumes there is a nexus or rational connection between proven conduct or circumstances . . . and an applicant's security eligibility. Direct or objective evidence of nexus is not required." ISCR Case No. 17-00507 at 2 (App. Bd. June 13, 2018) (citing ISCR Case No. 15-08385 at 4 (App. Bd. May 23, 2018)).

There are widely documented safety issues for residents of Jordan primarily because of terrorists and criminals. Numerous linguists have family living in countries that have problems with terrorists and criminals.

The mere possession of close family ties with relatives living in Jordan is not, as a matter of law, disqualifying under Guideline B. However, if an applicant or his or her spouse has such a relationship with even one person living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 08-02864 at 4-5 (App. Bd. Dec. 29, 2009) (discussing problematic visits of applicant's father to Iran).

There is a rebuttable presumption that a person has ties of affection for, or obligation to, his or her immediate family members, and this presumption includes in-laws. ISCR Case No. 07-06030 at 3 (App. Bd. June 19, 2008); ISCR Case No. 05-

00939 at 4 (App. Bd. Oct. 3, 2007) (citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)).

The DOHA Appeal Board has indicated for Guideline B cases, “the nature of the foreign government involved and the intelligence-gathering history of that government are among the important considerations that provide context for the other record evidence and must be brought to bear on the Judge’s ultimate conclusions in the case. The country’s human rights record is another important consideration.” ISCR Case No. 16-02435 at 3 (May 15, 2018) (citing ISCR Case No. 15-00528 at 3 (App. Bd. Mar. 13, 2017)). Another important consideration is the nature of a nation’s government’s relationship with the United States. These factors are relevant in assessing the likelihood that an applicant’s family members living in that country are vulnerable to government coercion or inducement.

The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, the government ignores the rule of law including widely accepted civil liberties, a family member is associated with or dependent upon the government, the government is engaged in a counterinsurgency, terrorists cause a substantial amount of death or property damage, or the country is known to conduct intelligence collection operations against the United States. The relationship of Jordan with the United States, and the situation in Jordan places a burden of persuasion on Applicant to demonstrate that her relationships with any family member living in or visiting Jordan does not pose a security risk. Applicant should not be placed into a position where she might be forced to choose between loyalty to the United States and a desire to assist a relative living in or visiting Jordan.

The Appeal Board in ISCR Case No. 03-24933, 2005 DOHA LEXIS 346 at *20-*21 n. 18 (App. Bd. 2005), explained how relatives in a foreign country have a security significance:

The issue under Guideline B is not whether an applicant’s immediate family members in a foreign country are of interest to a foreign power based on their prominence or personal situation. Rather, the issue is whether an applicant’s ties and contacts with immediate family members in a foreign country raise security concerns because those ties and contacts create a potential vulnerability that a foreign power could seek to exploit in an effort to get unauthorized access to U.S. classified information that an applicant -- not the applicant’s immediate family members -- has by virtue of a security clearance. A person may be vulnerable to influence or pressure exerted on, or through, the person’s immediate family members -- regardless of whether the person’s family members are prominent or not.

Guideline B security or trustworthiness concerns are not limited to countries hostile to the United States. “The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States.” ISCR Case No. 02-11570

at 5 (App. Bd. May 19, 2004). Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 02-22461, 2005 DOHA LEXIS 1570 at *11-*12 (App. Bd. Oct. 27, 2005) (citing ISCR Case No. 02-26976 at 5-6 (App. Bd. Oct. 22, 2004)) (discussing Taiwan).

While there is no evidence that intelligence operatives, criminals, or terrorists from or in Jordan seek or have sought classified or economic information from or through Applicant or her family, nevertheless, it is not prudent to rule out such a possibility in the future. International terrorist groups are known to conduct intelligence activities as effectively as capable state intelligence services, and Jordan has a significant problem with terrorism and crime. Applicant's family in Jordan "could be a means through which Applicant comes to the attention of those who seek U.S. information or technology and who would attempt to exert coercion upon him." ADP Case No. 14-01655 at 3 (App. Bd. Dec. 9, 2015) (citing ISCR Case No. 14-02950 at 3 (App. Bd. May 14, 2015)).

Applicant's relationships with relatives who are living in Jordan or visiting those countries create a potential conflict of interest because terrorists could place pressure on her family in Jordan in an effort to cause Applicant to compromise classified information. These relationships create "a heightened risk of foreign inducement, manipulation, pressure, or coercion" under AG ¶ 7. Department Counsel produced substantial evidence of Applicant's relationships with family in Jordan and has raised the issue of potential foreign pressure or attempted exploitation. AG ¶¶ 7(a), 7(b), and 7(e) apply, and further inquiry is necessary about potential application of any mitigating conditions.

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns including:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation;

(d) the foreign contacts and activities are on U.S. Government business or are approved by the agency head or designee;

(e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

The DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

AG ¶ 8(b) partially applies. Applicant has frequent contact with or a close relationship with her relatives, who are citizens and residents of Jordan. A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the U.S." Applicant resided in the United States from 2000 to present, except for about seven years in Jordan. Applicant, her husband, and three children are U.S. citizens. She has five siblings and eight nieces and nephews that live in the United States. She has a bank account in the United States. She prefers to reside in the United States over Jordan.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by her relationships with relatives who are citizens and residents of Jordan. Applicant has close relationships with family in that country, and they are at risk from criminals, terrorists, and human rights violations of Jordan's government.

It is important to be mindful of the United States' huge historical investment of manpower and money in the Middle East. Applicant's family members living in Jordan are potential targets of terrorists, and Applicant's potential access to classified information could theoretically add risk to her relatives living in Jordan.

In sum, Applicant's connections to her relatives living in Jordan are too significant to mitigate in the circumstances Applicant presented. Her connections to the United States taken together are not sufficient to overcome the foreign influence security concerns under Guideline B.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline B are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is 32 years old, and she is seeking a security clearance to improve her employment opportunities as a translator. In 2004, she graduated from a high school in the United States. In 2013, she received an associate's degree in business in the United States, and she is currently taking courses towards a bachelor's degree in accounting in the United States. In 2010, she married, and her three children are ages two, four, and six.

Applicant's spouse and three children are U.S. citizens, and they reside in the United States. In 2000, Applicant immigrated to the United States when she was 13 years old. She has five siblings and eight nieces and nephews that reside in the United States.

Applicant has frequent contact with or cares for her family, who are citizens and residents of Jordan. Her frequent contacts with her family in Jordan are a manifestation her care and concern for relatives living in Jordan. There is no evidence that her relatives are current employees of foreign governments or foreign military personnel. Her and her spouse's relationships with residents of Jordan are positive character traits; however, they raise important foreign influence security concerns. Connections to foreign countries must be balanced against connections to the United States.

Applicant resided in the United States from 2000 to present, except for about seven years in Jordan. Applicant and her family spent 11 of the past 15 months in Jordan. She has a bank account in the United States and no bank account in Jordan.

A Guideline B decision concerning Jordan must take into consideration the geopolitical situation and dangers there. See ISCR Case No. 04-02630 at 3 (App. Bd. May 23, 2007) (remanding because of insufficient discussion of geopolitical situation and suggesting expansion of whole-person discussion). Jordan is a dangerous place because of violence from terrorists, and the Jordanian government does not respect the full spectrum of human rights. Terrorists continue to threaten the Jordanian government, the interests of the United States, the U.S. Armed Forces, and those who cooperate and assist the United States. Jordan and the United States are allies in the war on terrorism.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude foreign influence security concerns are not mitigated. Eligibility for access to classified information is denied.

Formal Findings

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraphs 1.a, 1.c, 1.d, and 1.f:	Against Applicant
Subparagraphs 1.b, and 1.e:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge