



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



In the matter of: )  
)  
) ISCR Case No. 18-02252  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicholas Temple, Esq., Department Counsel  
For Applicant: Manuel Cardenas, Esq.

05/10/2019

---

**Decision**

---

DAM, Shari, Administrative Judge:

Applicant mitigated the security concerns arising from her personal and family connections in Jordan, the West Bank, Gaza, and Colombia. Based upon a review of the record as a whole, national security eligibility for access to classified information is granted.

**History of Case**

On October 4, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B (Foreign Influence). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG) effective within the DoD on June 8, 2017.

Applicant answered the SOR in writing on October 16, 2018 (Answer), and requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) assigned the case to me on February 7, 2019. DOHA issued a Notice of Hearing on February 12, 2019, setting the hearing for February 26, 2019. The hearing was held as scheduled.<sup>1</sup> Department Counsel offered Government Exhibits (GE) 1 and 2 into evidence. Applicant testified, and called one witness. Applicant offered Exhibits (AE) A through D into evidence. All exhibits were admitted by stipulation of the parties. DOHA received the hearing transcript (Tr.) on March 6, 2019.

### **Procedural Ruling**

At the commencement of the hearing, Department Counsel requested that I take administrative notice of facts concerning Jordan, the West Bank, and Gaza, as set forth in Government's Request for Administrative Notice for Jordan, marked as Hearing Exhibit (HE) 1; and Applicant's Request for Administrative Notice for Israel: West Bank and Gaza, marked as HE 2.<sup>2</sup> Applicant did not object to these exhibits, and they were admitted. (Tr. 13) The facts administratively noticed are limited to matters of general knowledge and not subject to reasonable dispute. Those facts are set out in the Findings of Fact, below.

### **Findings of Fact**

Applicant is 52 years old. She was born in Columbia. She attended high school and one year of college there. She immigrated to the United States in 1987 when she was 21 years old. Upon her arrival, she studied English. She married her husband in 1991. She became a U.S. citizen in 1993. She graduated from a U.S. university in 1994 with a bachelor's degree. She earned a master's degree in 2008. She and her husband have three daughters born in the United States. (Tr. 71-73, 47; GE 1) She is a dual citizen of Columbia. (Tr. 63)

In 1995, Applicant started her current position with a defense contractor. She has held a security clearance since 1995. This is her second security clearance investigation. (Tr. 73, 79-80)

Applicant's parents were born in Colombia and lived there until they died. She has six siblings (three brothers and three sisters), all of whom were born in Columbia and are naturalized U.S. citizens residing in the United States. (GE 1, 2) After her parents died, Applicant and her siblings inherited their family home in Columbia. It is a four-flat building, worth about \$150,000. One of her sisters, who is retired, stays in one flat when she visits Columbia. The other three flats are rented. The rental monies are used to maintain the building. Applicant does not receive income from the property. (Tr. 85-88, 99)

---

<sup>1</sup> Applicant waived her right to have 15-days' notice of this hearing. (Tr. 9)

<sup>2</sup> Although the SOR raises security concerns related to Applicant's cousin and friend, who are citizens and residents of Columbia, and Applicant's ownership of property there, the Government did not submit a Request for Administrative Notice for Columbia, relating to a heightened risk assessment.

Applicant has two living relatives who are citizens and residents of Columbia, an elderly aunt and a cousin. She periodically sends her aunt \$100 for medicine. (Tr. 89) She speaks to her cousin two or three times a year. That cousin manages the family's apartment building in Columbia. Applicant also has a close friend from high school, who is a citizen and resident of Columbia, with whom she maintains contact. Applicant speaks to her high school girlfriend every month, and connects through the internet. She and her girlfriend talk with other high school friends through online group chats. Applicant does not discuss her employment with her relatives or friends. Applicant visited Columbia in 1995 and in 2015, at which time she saw her girlfriend. (Tr. 101-105)

Applicant's husband testified. He is 49 years old. He was born in Iraq, while his family was working and living there. He and his family left Iraq when he was five years old and returned to their home in Jordan. He immigrated to the United States after high school and subsequently attended a U.S. university. He became a U.S. naturalized citizen in 1998. (Tr. 21-22) He has worked for a state agency since 1991. (Tr. 17) He holds dual citizenship with Jordan. (Tr. 52)

Applicant's husband had five siblings, four are living. One brother is a retired major with the Palestinian Authority (PA), where he had worked as a police officer from 1996 to 2018, while residing in Ramallah, West Bank. He no longer resides in Ramallah. He is a resident and citizen of Jordan. Applicant's husband speaks to him quarterly by telephone. He saw him in June 2018, when Applicant's other brother had heart surgery in Jordan. That brother is a citizen and resident of Jordan. He retired from a public works' position with a Jordanian government department. (Tr. 43-44, 52-55, 61)

Applicant's husband's youngest sister works for a zoning department in Ramallah, the city in which she and her husband live. She is a Jordanian citizen. Applicant's husband said he sends a couple hundred dollars a year to members of this sister's family as gifts. (Tr. 27-28) He has never discussed the security situation in the West Bank with this sister. His oldest sister worked for a ministry of the Palestinian government in Ramallah. Since retiring in 2016, that sister moved back to Jordan where her children live.<sup>3</sup> (Tr. 56-61)

Applicant's husband said he does not believe any of his siblings, who have lived in or traveled to the West Bank, have visited Gaza in the past 15 years during which it was taken over by Hamas, a U.S. designated terrorist organization. (Tr. 61; HE 1) His last visit to Ramallah was in 2009, when his mother was there and became ill and died. (Tr. 26)

Applicant's husband testified that his brother, the retired major, is aware that his wife is seeking a security clearance because he asked that brother for his certificate of training with the United States Security Coordinator when he worked for the PA. (AE D) He said the other siblings do not know many details about Applicant's job and have not

---

<sup>3</sup> The SOR did not allege a security concern regarding this sister-in-law. That fact will not be considered in analyzing disqualifying conditions. It may be considered in analyzing mitigating conditions and the whole-person concept.

discussed it with him. (Tr. 62) Applicant's husband testified that he has no ties to the Jordanian government or to the PA. (Tr. 48-49) He does not have plans to visit Jordan unless there is another medical emergency with a family member. (Tr. 64)

Applicant's husband and his four siblings inherited a three-floor building in Jordan upon his father's death. One of his brothers lives in it and manages the rental units. Applicant's husband said he does not receive any income from the rental proceeds. (Tr. 30-32) The unit has an estimated value of \$100,000. (Tr. 65)

Applicant traveled to Jordan once in 1998, to meet her husband's family after they married. She and her husband stayed for two weeks. While there, she met her husband's sisters and brothers. She informed her employer of the trip prior to leaving. (Tr. 76-78, 105) Applicant does not speak to her in-laws in Jordan or the West Bank. She said the language barrier makes it difficult to communicate with one another. She has no plans to visit Jordan the future. (Tr. 106)

Applicant and her husband have assets in the United States. They own a home which has an estimated value of \$300,000. (Tr. 89) She has about \$300,000 in her retirement account. She and her husband are providing financial support to their daughter who is attending college. The two younger daughters live at home. (Tr. 108; GE 1) She and her husband have no intention to move to Columbia or invest in the country. (Tr. 94)

Applicant expressed her love for the United States. She said she and her husband have no sympathies with any terrorist organization. They have no intention of moving or retiring to another country, such as Jordan. They intend to live in the United States. Her children have no intention of visiting Columbia or the Middle East. (Tr. 49, 94-96, 105, 108)

Applicant submitted her 2018-year-end performance review from her employer. Her supervisor gave her an over-all assessment as an "excellent performer." (AE C)

## **Jordan**

I have taken administrative notice of facts contained in U.S. Government pronouncements concerning Jordan, as outlined in HE 1. Jordan is a small, Middle Eastern country governed by a constitutional monarchy. Jordan has a pro-Western foreign policy, and has had close relations with the United States for more than forty years. Torture, arbitrary arrest, prolonged detention, denial of due process, and restrictions on freedom of speech are human rights problems in Jordan. Despite aggressive governmental action against terrorists, the threat of terrorism in Jordan remains high. Terrorists in Jordan target U.S. interests to exploit and undermine U.S. national security interests. Terrorist groups conduct intelligence activities as effectively as state intelligence services. The U.S. State Department issues travel advisories for U. S. citizens traveling to Jordan.

## **Israel: West Bank and Gaza**

I have taken administrative notice of facts contained in U.S. Government pronouncements concerning the West Bank and Gaza, as outlined in HE 2. As a result of the 1967 Arab-Israel War, Israel occupied the West Bank, Gaza Strip, Golan Heights, and East Jerusalem. In 1994, the Palestinians established the Palestinian Authority (PA) in the Gaza Strip and West Bank, whose purpose was to provide police and security for civilians living in the areas. The PA lacked many of the powers and authorities of a full-fledged nation state. In June 2007, Hamas, a U.S. designated terrorist organization, took control of the Gaza Strip after a brief civil war. Hamas exerts significant control and influence in the West Bank, and generally among Palestinians, due to its popularity for its resistance to Israel. Several other groups operating in Israel, the West Bank, and Gaza have been designated as Foreign Terrorist Organizations (FTOs) by the State Department.

Hamas engages in violent resistance to Israeli occupation of the West Bank and the Gaza Strip. Hamas receives assistance from Iran, Syria, and the Lebanese Shiite militant group Hezbollah. Several other foreign terrorist organizations operate in the West Bank and Gaza Strip. The State Department urges caution when traveling to the West Bank. U.S. government personnel and their families are allowed only on specifically identified routes, and all other personal travel in the West Bank, unless specifically authorized for mission-approved purposes, is prohibited. U.S. citizens have been injured, killed, or kidnapped by terrorists in the West Bank.

### **Policies**

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context of a number of variables known as the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence

contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an “applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person applying for national security eligibility seeks to enter into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, “[a]ny determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **Guideline B: Foreign Influence**

¶ 6: The security concern relating to the guideline for foreign influence is set out in AG

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.

The guideline includes several conditions that could raise security concerns under AG ¶ 7. Four are potentially applicable 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;<sup>4</sup>

(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;

(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; and

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Applicant's husband is a dual citizen of the United States and Jordan. She and her husband reside together. Her two brothers-in-law are citizens and residents of Jordan. One of those brothers-in-law worked as a police officer for the PA, located in the West Bank, until he retired in 2016. One sister-in-law is a citizen and resident of the West Bank. Applicant's husband has ongoing familial connections with these siblings. He also has an ownership interest with them in a piece of property in Jordan. These relationships create a heightened risk of foreign pressure or attempted exploitation because terrorists and insurgents in Jordan or the West Bank may seek intelligence or engage in behaviors that are hostile to the United States' interests and citizens. The relationships also create a potential conflict of interest between Applicant's obligation to protect sensitive information or technology and her desire to help in-laws living in Jordan or the West Bank. The evidence is sufficient to raise the above disqualifying conditions as to allegations related to her husband, in-laws, and her husband's ownership of property in Jordan. AG ¶¶ 7(a), 7(b), 7(e), and 7(f) apply.

Applicant has maintained contact with her cousin and a girlfriend, who are citizens and residents of Columbia, since leaving that country. Applicant also has an ownership interest, with her six siblings, in a piece of property in Columbia. Only AG ¶ 7(b) applies

---

<sup>4</sup> The mere possession of close family ties with a person in a foreign country is not, as a matter of law, disqualifying under Guideline B. However, if only one relative lives in a foreign country and an applicant has contacts with that relative, 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. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

to the contacts she has with the two citizens of Columbia, because an issue of heightened risk has not been raised with respect to Columbia. AG ¶¶ 7(a), 7(e), and 7(f) do not apply.

After the Government produced sufficient evidence of those disqualifying conditions, the burden shifted to Applicant to rebut them or otherwise prove mitigation. Four mitigating conditions under AG ¶ 8 are potentially applicable to the disqualifying security concerns at issue in this case:

(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; 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.

AG ¶ 8(a) has limited applicability. Applicant does not speak to her in-laws because of a language barrier. She has not been to Jordan since 1998. Applicant's husband, however, has ongoing contact with his four siblings, who reside in Jordan and the West Bank. Because of those close connections, Applicant is not able to fully meet her burden of showing there is "little likelihood that the relationships between her husband and his siblings could create a risk for foreign influence or exploitation."

AG ¶ 8(c) applies to Applicant's foreign contacts with her Colombian aunt and cousin that are alleged in the SOR. She credibly testified that her communications with those relatives are minimal, occurring a couple times a year. AG ¶ 8(c) applies minimally to her girlfriend, with whom she speaks on a monthly basis and interacts through a chat room.

AG ¶ 8(b) fully applies. A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the United States." Applicant has established substantial connections to the United States. She left Columbia in 1987 and immigrated to the United States. She became a U.S. citizen in 1993. She graduated from



a U.S. university in 1994 and began working for her current employer in 1995. She has held a security clearance since then, without incident. Her recent performance reviews reflect her excellent work. Her husband and children are U.S. citizens and residents. Her siblings are U.S. citizens and residents. She and her husband have significant financial ties in the United States that outweigh their inherited foreign real estate interests shared with siblings. Applicant can be expected to resolve any conflict of interest in favor of the U.S. interest.

The evidence establishes mitigation under AG ¶ 8(f), as to the allegation in SOR ¶ 1.e. Applicant's husband has a shared ownership interest with three siblings in a piece of real estate in Jordan that has an estimated value of \$100,000 but provides no income to him. Applicant and her husband own a home in the United States worth about \$300,000. She has about \$300,000 in a retirement fund. They both hold secure long-term employment in the United States. Her U.S. assets are far more significant than the shared interest that her husband may realize if he and his siblings sold their family property.

Applicant's substantial, deep, and long-lasting connections to the United States outweigh any connections she has to Colombia, or to Jordan and the West Bank through her husband and in-laws. She presented sufficient evidence to fully overcome and mitigate all foreign influence security concerns under Guideline B.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's national security eligibility by considering the totality of the applicant's conduct and all relevant 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.

According to AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the applicable guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. The foreign influence security concerns do not arise from any questionable conduct by Applicant, but rather circumstances that are the result of her husband's relationship with his siblings in the Middle East and her childhood in Colombia. There is sufficient mitigating evidence weighing in favor of

granting Applicant a security clearance. Applicant is a mature person, who has lived in the United States since 1987 and has been a citizen since 1993. She has successfully worked for the same defense contractor since 1995. Her husband has been a U.S. citizen since 1998. They have three children who were born in the United States. All of Applicant's siblings are U.S. citizens. At this time, her connections to Jordan and the West Bank are through her husband's four siblings, with whom she does not communicate. The likelihood that any of those in-laws could pressure her, through her husband, to cause potential harm to the United States is minimal. Her long-distance connections to Columbia through two relatives and a girlfriend do not raise a security concern. Her financial interest in the family property in Columbia is minimal. Applicant has demonstrated her loyalty to the United States through her many years of excellent work with the government contractor.

After weighing the disqualifying and mitigating conditions, and all pertinent facts and circumstances in the context of the whole-person, I conclude Applicant mitigated the security concerns pertaining to foreign influence. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance.

### **Formal Findings**

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

Paragraph 1, Guideline B: FOR APPLICANT

Subparagraphs 1.a through 1.h: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is granted.

SHARI DAM  
Administrative Judge