



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



In the matter of: )  
)  
) ISCR Case No. 18-02893  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brian Olmos, Esq., Department Counsel  
For Applicant: *Pro se*

07/08/2019

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**Decision**

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HEINY, Claude R., Administrative Judge:

Applicant contests the Department of Defense’s (DoD) intent to deny his eligibility for a security clearance to work in the defense industry. The Statement of Reasons (SOR) alleges Applicant’s siblings and in-laws are citizens and residents of Afghanistan. Additionally, he was terminated in 2015 from his job as a contract linguist. Applicant has proven his fidelity to the nation and his trustworthiness. Applicant has mitigated the foreign influence and personal conduct security concerns. Clearance is granted.

**Statement of the Case**

On February 4, 2019, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued an SOR to Applicant, detailing the security concerns under Guideline B, foreign influence, and Guideline E, personal conduct, under which it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him.

The DoD CAF took the action 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 *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG) effective within the DoD on June 8, 2017.

On February 19, 2019, Applicant answered the SOR allegations and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On April 3, 2019, DOHA issued a Notice of Hearing scheduling a hearing that was conducted on April 10, 2019. Applicant had no objection to the date of the hearing and so waived the 15-day notice requirement required under Directive ¶ E3.1.8.

Seven Government exhibits (Ex. 1-7) and two Applicant exhibits (Ex. A and B) were admitted into evidence without objection. Documents submitted by Applicant as attachments to his SOR answer were also considered. Applicant testified, as reflected in a transcript (Tr.) received on April 19, 2019.

### **Findings of Fact**

In Applicant's answer to the SOR, he stated his wife has a "green card," (U.S. Permanent Resident Card), and both his children are U.S. citizens with U.S. passports. Applicant stated his older brother is a teacher who retired in 1991 as an officer in the Afghan military. He indicated his second oldest brother is a shop keeper who had performed his mandatory military service in 1990. He stated another brother is a captain in a police department. This brother did his mandatory military service prior to 1990. He stated that his youngest brother is employed by an Afghan agency and did not perform any military service. Applicant was the youngest in his family and did not have to complete mandatory Afghan military service because he was not 18 years old at the time. (Tr. 20)

In Applicant's SOR response, he stated his siblings, mother-in-law, and father-in-law are citizens and residents of Afghanistan. His father-in-law was a police officer before retiring in 1991. He stated his sister-in-law is an Afghan citizen living in the United States, and she has her permanent resident card. He stated he has provided support to his siblings and sister-in-law between 2010 and 2015. He stated he gifted three properties he owned to his siblings in 2008. He also admitted to being terminated from his job in January 2015. After a thorough review of the pleadings and exhibits, I make the following findings of fact:

Applicant is a 44-year-old linguist who has worked for a defense contractor initially since December 2005, with some interruptions. (Ex. 3, Tr. 16) From December 2005 through October 2008, Applicant first worked with U.S. military forces in Afghanistan. (Tr. 16) While working for the U.S. military in Afghanistan he underwent required counterintelligence-focused security screening interviews every six months. The results of the February 2010, March 2012, May 2014, and January 2017 interviews are contained in the record. (Exs. 4, 5, 6, and 7) As a combat linguist, he was in combat situations while working with the U.S. military. (Ex. 4) In April 2019, he returned to Afghanistan as a linguist.

Applicant believes it is an honor to work as a linguist for the U.S. military. (Tr. 62) He believes his job "is important because Soldiers cannot understand the culture or the language. HIS job is to help the Soldiers understand what is going on in the country and try to help the Afghan people understand the American Soldiers." (Ex. 4) He asserts his love for the United States. (Tr. 62) If threatened or blackmailed by anyone, he would contact authorities. (Ex. 4) He believes that anyone found guilty of espionage or treason against the United States should be put to death. (Ex. 4) He believes that it is important to protect U.S. secrets, because should someone learn of the secrets it could hurt people or result in an attack on bases. (Tr. 4) He believes strengthening the Afghan military and police is important because, if they are strong, the Taliban will not try to attack anymore. (Tr. 4) What he likes about the United States is the education system; that there is little or no favoritism; the laws are implemented for every person equally; and, most importantly, there is freedom where one can live however they want. (Ex. 4)

Applicant was born in Afghanistan. His wife is an Afghan citizen living in the United States. His daughter, age five, was born in Afghanistan and his son, age three, was born in the United States. They live with their mother in the United States.

In November 2008, Applicant came to the United States on a SIV (Special Immigrant Visa), which is a special visa for Iraqi and Afghan translators/interpreters who were employed on behalf of the U.S. Government. (Ex. 4, Tr. 11) He wanted to come to the United States because the United States "is one of the great democratic country [sic] in the world." (Tr. 16) In December 2008, he received his Permanent Residence Card, and in April 2014, he obtained his U.S. citizenship. (Exs. 1, 4, 6, Tr. 10)

In primary school Applicant became very interested in learning English. (Tr. 64) He was the youngest of his siblings and the only one to learn English. In 1992, a civil war started in Afghanistan when the Taliban took over. (Tr. 66) At that time, his father lost his job as a police officer and took his retirement. His father then worked as a bank clerk in the payroll section of an Afghan ministry. (Ex. 4) In 1995, after graduating high school, Applicant and his four brothers immigrated to Iran as refugees to avoid the Taliban regime. (Tr. 65) He was in Iran five years working in construction and in a factory. (Ex. 4, Ex. 6) He was unable to participate in his father's funeral ceremony in Afghanistan when his father died in 1998. (Tr. 66) In 2007, his mother died.

After the United States entered Afghanistan and attacked the Taliban and pushed them out of the country, Applicant felt it was safe again to return to Afghanistan. (Ex. 4) After returning, while working at an Afghan ministry, he continued his English lessons. A co-worker told him that his brother was a linguist for the U.S. military and asked him if he wanted to become a linguist for the U.S. military. Applicant tested in three languages and became a linguist in December 2005. (Tr. 65)

In October 2008, a month before first coming to the United States, Applicant married his wife in Afghanistan. Their marriage had been arranged by their families. (Tr. 18) Following the wedding, his wife initially stayed in Afghanistan, with her parents who are citizens and residents of Afghanistan. (Tr. 44) It took two years and three months for his spouse to obtain her U.S. Permanent Resident Card. (Tr. 21) She came to the United

States in March 2013. (Tr. 22) While Applicant was working in Afghanistan, his wife lived with relatives in the United States until she obtained her green card. After obtaining her green card, she returned to Afghanistan to live with her parents. (Tr. 23)

In March 2010, Applicant returned to Afghanistan as a linguist. He worked with the U.S. Marines in a remote, very dangerous area. (Tr. 11) He had to resign his job due to a family problem. He needed to send his sister some support money and could not do it from his Afghan military base. (Tr. 19) His sister, living Afghanistan, had been a widow since 2004 and was raising seven children. (Tr. 20) Over the years, he sent minor amounts of money, \$200 to \$300, to his siblings on holidays to pay for holiday gifts, presents, food and treats for the holidays. (Ex. 3) He also sent a like amount of money to his parents-in-law over the years for holiday gifts.

In 2010, Applicant was back in the United States for a year before returning to Afghanistan as a U.S.-hired linguist. (Tr. 12) From August 2011 until January 2015, he worked as a linguist in Afghanistan, often in combat situations. (Ex. 4, Tr. 51)

In 2014, Applicant's wife and children were living in Afghanistan. In December 2014, his daughter was very sick with vomiting and diarrhea and taken to the hospital. (Ex. 3) His daughter was in a very bad situation. The hospital was 1.2 miles from the military compound where he worked. He left the compound for five or six hours to visit his daughter. (Tr. 55) Normally he would have obtained prior approval and permission to leave the base, which was required by company policy and procedure, but he did not do so because it was an emergency. (Tr. 53) Additionally, he knew personnel were not authorized to leave the installation for personal reasons. (Ex. 3) In January 2015, he was terminated from his position as a contract linguist for violation of company policy. He fully discussed the facts related to this incident in his September 2017 enhanced subject interview. (Ex. 3)

From October 2017 to March 2019, Applicant's wife lived with her parents in Afghanistan. (Tr. 25) During that time, Applicant talked to his in-laws weekly. The frequent communication stopped in March 2019, when his wife returned with him to live in the United States. His wife will not be traveling to Afghanistan because she is now attending college and trying to get a job. Additionally, she is now more familiar with the United States. (Tr. 25)

Applicant's brothers and sister live in Afghanistan. He calls them on religious holidays to inquire about their health. (Tr. 12, 32) Applicant never served compulsory service with the Afghan military due to his age. (Tr. 30) His oldest brother's compulsory service ended in 1991 (Ex. 3) and this brother teaches seventh and eighth grade as an employee of the Afghan government. (Tr. 30-31) This brother is married and has six children. The last time he saw this brother or any of his siblings in person was in January 2015. (Tr. 33) Applicant has sporadically sent money in the amounts of \$100 to \$300 to his siblings. (Tr. 33-34) He last sent money in 2017. (Tr. 25) In 2007, following his mother's death, Applicant and his siblings inherited their parents' property. (Ex. 3, Ex. 4, Tr. 50) He received a one-sixth interest in farm land valued at \$83,000. (Ex. 3) He

received no income from the property and had no obligation on the property. In 2008, he gave his share of the property to his siblings.

Applicant has a brother who is a police officer employed by a department of the Afghan government. (Tr. 34) His brother is married and has a son and daughter. Another brother is a shopkeeper who owns a dress store. (Tr. 36) His shop-owner brother is married and has one daughter and served his compulsory military service from 1996 to 1988. (Ex. 3, Tr. 36) Applicant's fourth brother works is a statistician for an Afghan governmental entity. (Tr. 38) This brother has one daughter and two sons. His widowed sister has seven children. (Tr. 40) In the past, Applicant has sent her money to help meet her financial needs. All his siblings live in Afghanistan.

Applicant sponsored his wife and a nephew for immigration to the United States. (Tr. 42) His nephew came to the United States in 2013 seeking political asylum. (Ex. 3, Tr. 42) His nephew, an engineer, has a work permit and lives and works in California. In 1990 or 1991, his father-in-law retired as a policeman and his mother-in-law is a housewife. (Ex. 3, Tr. 45) His father-in-law's most recent employment was that of a communications officer for an Afghan ministry. (Ex. 3, Tr. 47) His wife lived with her parents from October 2017 until just recently. (Tr. 46) While his wife was living with her parents, Applicant had weekly contact with his in-laws. (Ex. 3) His sister-in-law is a permanent U.S. resident living in the United States. (Tr. 47) Both his wife and sister-in-law plan on applying for U.S. citizenship as soon as they are able to do so. (Tr. 48) Three of his sister-in-laws live in Afghanistan, but he has minimal conduct with them. (Tr. 49)

Applicant's wife intends to stay in the United States because she is now eligible to apply for her citizenship. She is taking English classes and taking some college courses, and their daughter is starting kindergarten. (Tr. 58-59) In April 2019, Applicant started the process of purchasing his home in the United States. (Ex. B, Tr. 29) The purchase offer has been accepted and the loan approved. (Tr. 29) In 2013, he had bought a home from 2013 to 2016. He sold it in 2016 after his income from his linguist job ended in 2015. (Tr. 78)

Afghanistan is an independent country that is confronting the challenges posed by decades of war, and an insurgency led by the Taliban and other insurgent groups. The terrorist threat posed by Al-Qa'ida and others remains high. The United States is currently engaged in a mission to disrupt, dismantle, and defeat Al-Qa'ida, and to prevent their return to Afghanistan. One of the main missions of the U.S., in helping the Afghan government to secure its own borders and maintain internal order, is the training of an Afghan National Army.

Afghanistan remains a dangerous country. The State Department warns U.S. citizens of the possibility of terrorism and violent crime. It further warns U.S. citizens who travel to Afghanistan to engage in business that they may become the target of threats, to include kidnapping. Serious human rights problems exist in Afghanistan.

## **Character References**

Applicant submitted 13 letters of appreciation, nine letters of recommendation, and other documents of training, all showing his outstanding duty performance. (Ex. A) In May 2012, Applicant received two Certificates of Appreciation for exceptional dedication and devotion to duty in support of the NATO Training Mission Afghanistan. (Ex A) He received a Certificate of Appreciation for his dedication and support to the U.S. Army. He received numerous other certificates of appreciation for his duty performance. A March 2007 Letter of Recommendation, from a U.S. Army major general, indicates that Applicant was one of the top translators serving with U.S. forces in Afghanistan. The major general recommends Applicant for special immigration status. A December 2014 Letter of Recommendation stated Applicant had provided dedicated service to Coalition members and provided exceptional linguist/translation service. (Ex. A)

The file contains numerous other letters of support for Applicant's special immigration application as an Afghan Interpreter/Translator due to Applicant's outstanding and invaluable services to the U.S. Army and Air Force. (Ex. A) One letter of recommendation stated Applicant "is among the finest citizens I've met, in terms of work ethic, loyalty and motivation for self [-] improvement. He actively pursues knowledge in the face of personal hardship and displays great potential to strengthen US/Afghanistan relations." (Ex. A) Applicant's special visa application was endorsed by two U.S. Army brigadier generals. Applicant was presented a flag of the United States for his "unfailing support of Operations ENDURING FREEDOM." (Ex. A)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered in evaluating an applicant's eligibility for access to classified information.

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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the adjudication process is an examination of a sufficient period and a careful weight of a number of variables of an individual's life to make an affirmative determination that the individual is an acceptable security risk. This is known as the whole-person concept.

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.

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

A person who seeks access to classified information enters 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 access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination of the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B, Foreign Influence**

The foreign influence concern is set forth at AG ¶ 6, as follows:

Foreign contacts and interests, including, but not limited to, business, financial interests, and property interest, are a national security concern if they result in divided allegiance. They may also be a national security concern if they created circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way that is inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interest should consider 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 potentially conflicting loyalties raised by foreign contacts must be weighed to determine if an applicant can be expected to resolve any conflict in favor of U.S. interests. In determining if Applicant’s contacts in Afghanistan cause security concerns, I considered that Afghanistan and the United States have a relationship, which includes working together on international security issues and trade. There is no evidence that the Afghan government targets U.S. citizens for protected information. Human rights issues in the Afghanistan continue to be a concern. While none of these considerations by themselves dispose of the issue, they are all factors to be considered in determining

Applicant's vulnerability to pressure or coercion because of his siblings and in-laws in Afghanistan.

AG ¶ 7 describes conditions that could raise a security concern and may be disqualifying:

(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; and

(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.

An applicant's ties to a foreign country, through family members or others, can raise a foreign influence concern. Applicant's four brothers, sister, and in-laws are citizens and residents of Afghanistan. Applicant's contacts and connections with his siblings and in-laws raise a heightened risk under AG ¶¶ 7(a) and (b).

At one time, Applicant had a one-sixth share in his parents' farm land after the death of his mother. He gave his share to his siblings and no longer owns any property in Afghanistan. He is buying a home for his family in the United States. Having had a prior ownership interest in an inheritance at one time, which he no longer has, is not a disqualifying concern. AG ¶ 7(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") does not apply. I find for Applicant as to SOR 1.g.

As for the foreign influence concerns raised by his foreign ties (*See generally* AG ¶¶ 7(a) and (b)), Applicant clearly mitigated the concerns. He established the following mitigating conditions under AG ¶ 8:

(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.; and

(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.

Applicant's parents are deceased. His nephew and sister-in-law are permanent U.S. residents living in the United States. There is no security concern raised by these family members. I find for Applicant as to SOR 1.a.

Applicant's siblings and in-laws are citizens and residents of Afghanistan. It must be determined if these family relationships create a risk of foreign exploitation, inducement, manipulation, pressure, or coercion by terrorists or would create a potential conflict of interest between his obligations to protect sensitive information and his desire to help his siblings or in-laws who may be threatened by terrorists.

In determining if such a risk exists, Applicant's relationships and contacts with his family, as well as the activities of the government of Afghanistan and terrorist organizations within Afghanistan must be reviewed. The risk that an applicant could be targeted for manipulation or induced into compromising classified information is real, not theoretical. Applicant's relationship with his siblings and in-laws in Afghanistan raise a heightened risk and a security concern because of terrorists' activities in Afghanistan. The evidence of record fails to show that the Afghan government targets U.S. citizens in the United States or in Afghanistan by exploiting, manipulating, pressuring, or coercing them to obtain protected information. Thus, the concern that the Afghan Government will seek classified information is moderate. The same cannot be said of the terrorists' organizations operating in Afghanistan, whose goals are to destroy or prevent the growth of a stable, central government in Afghanistan.

Applicant's brother works for the Afghan government as a middle-school teacher. Another brother is a police officer working for a ministry of Afghanistan's government. Another brother is a statistician for the government. His fourth brother is a shopkeeper and his sister is unemployed. He last saw his siblings in person in January 2015. He has limited contact with them. He contacts them twice a year during religious holidays. His contacts and relationships with these family members present an acceptable security risk as his contacts with them are minimal and because of his professed strong allegiance toward the United States. I find for Applicant as to SOR 1.b and c.

As previously stated, twice a year during religious holidays Applicant sends a minor amount of money to his siblings and parents-in-laws for presents for their children and holiday gifts. He has done this for a number of years. The amount of money provided to his siblings between 2010 and 2015 was minimal. I find for Applicant as to SOR 1.f.

Applicant's contact with his parents-in-laws was more frequent than his contact with his siblings. When his wife lived with her parents, he would talk with his father-in-law and mother-in-law weekly. This communication stopped when Applicant's spouse moved to the United States. His father-in-law has not been a police officer in Afghanistan since 1990 or 1991, which is more than 28 years ago. AG ¶ 8(a) and (b) apply. I find for Applicant as to SOR 1.d and 1.e.

Furthermore, Applicant established that he would resolve any potential conflict in favor of U.S. national interest. Security clearance adjudications are predicative judgments, where an applicant's past history is the best indicator of future conduct. The Appeal Board has held that:

Generally, an Applicant's statements, by themselves, as to what he would do in the face of threats by a foreign government or entity are entitled to little weight. On the other hand, an applicant's proven record of action in defense of the U.S. is very important and can lead to a favorable result for an applicant in a Guideline B case. In this case, Applicant has served the U.S. military as a translator in dangerous circumstances in Afghanistan and has risked his life to protect American personnel there. (ISCR Case No. 07-00034 at 2 (App. Bd. Feb. 5, 2008). See also ISCR Case No. 06-25928 (App. Bd. Apr. 9, 2008); ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006)).

Applicant has again put himself in harm's way to help those he has come to see as his family, the U.S. service members that he has served with on and off on a daily basis over the past 14 years. In light of his past history, Applicant's commitment to U.S. interests is no hollow promise. Applicant provides support to the United States and to Afghanistan. He recognizes the obligations he has to the United States. He is loyal to the United States and can be expected to resolve any conflict of interest in favor of the United States. AG ¶ 8(b) applies. Applicant mitigated the foreign influence concerns.

### **Guideline E, Personal Conduct**

The personal conduct concern is set forth at AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes a disqualifying condition that could raise a security concern under AG ¶ 16, and the following warrants discussion because of Applicant's employment termination for failure to comply with company policy:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes but is not limited to consideration of:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or other government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

AG ¶17 lists two conditions that could mitigate security concerns in this case:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

In December 2014, Applicant's daughter was in the hospital suffering from vomiting and diarrhea. The hospital was less than two miles away from his base in Afghanistan. He knew he would not be authorized to leave the base for a personal reason such as visiting his daughter in the hospital. He was gone less than six hours from the base to visit his daughter. He was terminated from his position due to unprofessional conduct and violation of company policy. Applicant fully discussed the incident resulting in his termination during his September 2017 enhanced subject interview.

The factors leading to Applicant's termination are unlikely to be repeated since his wife and children now reside in the United States. It is unforeseen that he would again leave his base without proper authorization. It has been more than four years since his termination. The event was not minor, but was an isolated occurrence since it only occurred once. This was the sole violation of company policy during his employment from 2005 through 2015. It did happen under unique circumstances and does not cast doubt on his current reliability, trustworthiness, or good judgment. Although he has not received counseling, he fully disclosed the events leading up to his termination in his September 2017 interview. AG ¶¶17 (c) and (d) apply.

### **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), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. My comments under Guidelines B and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 44-year-old linguist who has worked for a defense contractor initially since December 2005, with some interruptions. He is currently working as a linguist in Afghanistan. In his role as linguist he has seen combat. His military service in harm's way in support of the U.S. military merits considerable respect. He asserts his love for the United States. He believes it is an honor to work as a linguist for the U.S. military. He believes his job is important to help U.S. military members understand the Afghan culture or the language and to help the Afghan people understand the American military.

Applicant's outstanding duty performance is evidenced by his numerous letters of appreciation and letters of recommendation. Supervisors have many tasks, especially those serving in hostile environments, but two of the most important of their many tasks are: first, to accomplish the mission, and second, to evaluate those individuals assigned to them or working with them. Their character evaluations are important and often more accurate because they have observed applicants over longer periods of time and under a variety of events and stresses, especially when in combat situations. These supervisors are required to evaluate individuals and describe their performance, trustworthiness, reliability, and dedication. I place a great deal of weight on the evaluations. The record includes a recommendation from a major general and recommendations from two brigadier generals, among numerous other recommendations. The major general stated Applicant was one of the top translators serving with U.S. forces in Afghanistan, and he recommended him for special immigration status.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, DoD Manual 5200.02, and the AGs, to the facts and circumstances in the context of the whole person. The issue is whether Applicant's siblings and in-laws living in Afghanistan and his 2015 termination raise concerns about his fitness to hold a security clearance. (See AG ¶ 2(c)) Applicant has proven his fidelity to the nation and his trustworthiness.

These whole-person factors, in conjunction with the favorable matters noted above, fully mitigate the foreign influence and personal conduct concerns. Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the foreign influence and personal conduct security concerns.

### **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, Foreign Influence:	FOR APPLICANT
Subparagraphs 1.a –1.g:	For Applicant
Paragraph 2, Personal Conduct:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **Conclusion**

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

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CLAUDE R. HEINY II  
Administrative Judge