



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-01679
	)	
Applicant for Security Clearance	)	

**Appearances**

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

09/21/2021

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline B, foreign influence, but he mitigated the concerns under Guideline F, financial considerations. Applicant’s eligibility for a security clearance is denied.

**History of the Case**

On September 18, 2020, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines B and F. DOD acted under Executive Order (EO) 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 effective June 8, 2017 (AG).

Applicant answered the SOR on September 28, 2020, and he requested a hearing before an administrative judge. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on June 21, 2021, and the hearing was convened

as scheduled on July 13, 2021, using the Defense Collaboration Services (DCS) video teleconferencing capabilities. The Government offered exhibits (GE) 1 through 5, which were admitted into evidence without objection. The Government's exhibit list was marked as a hearing exhibit (HE I). Applicant testified and offered exhibits (AE) A1 – A11, B1 – B14, and C1 – C5. The record was kept open to allow Applicant to submit additional evidence, which he did in the form of AE A12 – A15. All were admitted without objections. DOHA received the hearing transcript (Tr.) on July 22, 2021.

### **Procedural Ruling**

Department Counsel requested that I take administrative notice of certain facts relating to Egypt. Applicant did not object and the request was granted. The request was not admitted into evidence but was included in the record as HE II. The facts administratively noticed are set out in the Findings of Fact, below.

### **Findings of Fact**

In Applicant's answer to the SOR, he admitted all of the SOR allegations. His admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 47 years old. He was born in Egypt in 1973. He lived in Egypt for approximately 30 years before immigrating to the United States in 2005 through the use of a spousal visa. He married his first wife (W1) in 2000, and he has three children from this marriage. His son is (S) 19, his oldest daughter (D1) is 17, and his youngest daughter (D2) is 16. He divorced W1 in September 2003 and married his second wife (W2) in October 2003. W2 is a native-born U.S. citizen. Applicant and W2 were married in Egypt and lived there for two years until they moved to the United States in 2005. W2 sponsored Applicant for his spousal visa to become a resident alien in 2005. He attained U.S. citizenship in 2008. He divorced W2 in 2013. He remarried W1 in 2016. W1 currently resides in Egypt with D1 and D2. S is currently attending college in the United States. Applicant graduated from high school in Egypt, but also successfully completed the general educational development (GED) test in 2013. He received a bachelor's degree in engineering in May 2018. He has worked for a defense contractor since June 2019. (Tr. 36-37, 39, 58-61; GE 1)

Under Guideline B, the SOR alleged that W1, Applicant's father (F), brother (B), and two sisters (S1 and S2) are all citizens and residents of Egypt; that S is a citizen of Egypt residing in the United States; that D1 and D2 are dual U.S.-Egyptian citizens residing in Egypt; that Applicant provides \$500 monthly to his children living in Egypt; and that he owns property in Egypt where W1, D1, and D2 reside. Under Guideline F, SOR alleged that Applicant had nine delinquent collection and charged-off debts totaling approximately \$28,520. (SOR ¶¶ 2.a-2.i) The debts are established by Applicant's admissions and entries on credit reports. (GE 3-4; Answer to SOR)

## Foreign Relatives

**W1 (SOR 1.a, 1.d, 1.h):** As related above, Applicant remarried W1 in 2016. She is a native-born Egyptian who currently resides there. She holds an Egyptian passport, which expires in December 2027. She has never visited the United States. She has a law degree, but has never practiced law. She is a full-time mother. She lives in Egypt with D1 and D2 in an apartment purchased by Applicant for approximately \$20,000 in 2013. Applicant provides the sole financial support for W1 and their daughters. He has daily contact with W1 either by telephone or internet messaging. W1 has no affiliation with the Egyptian government or military. She applied for U.S. resident-alien status in June 2021. Applicant believes the application process could take as long as one year. (Tr. 36, 42-46, 48, 50, 97-98; AE B1, B12-B14)

**S (SOR 1.b):** S is a native-born Egyptian citizen who acquired U.S. citizenship through Applicant's sponsorship in 2011, when S was still a minor. He currently holds dual citizenship from both countries. He resides in the United States, where he is attending college. S has no intention to return to Egypt after he completes college. He has no affiliation with the Egyptian government or military. (Tr. 47-48, 50; 69-70; AE B4-B7)

**D1 and D2 (SOR 1.c):** D1 and D2 are native-born Egyptian citizens who acquired U.S. citizenship through Applicant's sponsorship in 2011, when they were still minors. They both currently reside in Egypt with their mother, W1 and are supported financially by Applicant. They attend an American school in Egypt to prepare them for college in the United States. Applicant is fearful for their safety in Egypt, not necessarily from the government or terrorism, but because of the prevalent street crime that exists there. He hired a driver to take them to and from school for safety reasons. D1 is now a senior in high school. Applicant intends for them to come to the United States with W1 when her immigration application is approved, or he will bring them both to the United States even if W1's application is not finalized. They both visited the United States this summer and stayed with Applicant for about two months. Applicant has daily contact with D1 and D2 either by telephone or internet messaging. Neither D1 nor D2 have affiliations with the Egyptian government or military. (Tr. 43, 46-48, 50, 69-70, 72-75, 97-98; AE B8-B11)

**F (SOR 1.e):** F is a native-born Egyptian who also resides there. He is 84 years old and is retired from the oil industry and living on a "good" pension. Applicant does not provide any financial support to F. According to Applicant, F is "very sick" and lives with B. Applicant has frequent contact with his father because of his health through telephone calls or messages. After his mandatory military service in 1973, F had no further affiliation with the Egyptian government or military. (Tr. 49-51, 75-76; GE 1)

**B (SOR 1.f):** B is a native-born Egyptian who also resides there. He is 34 years old. He works for the same private sector oil company for whom F worked. Applicant does not provide any financial support for B. Since F lives with B, Applicant has frequent contact with B acting as a conduit to communicate with F. Otherwise,

Applicant's substantive contact with B is less than twice a month. B has no affiliation with the Egyptian government or military. (Tr. 50-51, 75-76; GE 1)

**S1 and S2 (SOR 1.g):** S1 and S2 are native-born Egyptians who also reside there. S1 is 52 years old and S2 is 41 years old. Neither work outside the home. Applicant does not provide any financial support to either of them. He has contact with his sisters less frequently than with F or B, probably twice a year. S1 and S2 have no affiliation with the Egyptian government or military. (Tr. 50-52, 78; GE 1)

Applicant testified that he never voted in an Egyptian election the entire time he resided there. Upon gaining U.S. citizenship, he voted in the 2008 Presidential election, which was the last time he voted. He also stated that after he divorced W2 in 2010 he went through some difficult times until he obtained his college degree in 2018. Those difficult times contributed to his financial problems discussed below. To continue to support his family living in Egypt while he was in college, he worked low-paying jobs and lived in his car for several months. He is now in a much more stable financial position, with an annual salary of approximately \$190,000. This has allowed him to pay his delinquent debts, purchase a home, and establish some savings. He believes once all of his children come to the United States, they will permanently reside here. He intends to sell his apartment in Egypt once his family comes to the United States. He last visited Egypt from September 2018 to January 2019. He stayed with his family in their apartment. He returned to help tutor his son in preparation to take his college scholastic aptitude test (SAT). (Tr. 41, 49, 53, 63, 65, 67, 70, 79, 81)

## **Egypt**

Several terrorist organizations operate in Egypt. In 2014, the most active terrorist group operating there pledged its allegiance to ISIS. The U.S. Department of State has assessed Cairo as a critical-threat location for terrorism directed at U.S. Government interests. It also has been given a Level 3 travel advisory. The Egyptian Government does not respect the full spectrum of human rights.

## **Financial**

Applicant recently resolved his remaining debts. He explained that he did not act sooner to resolve them because he did not obtain his current well-paying job until 2019. He also did not understand the security significance or implications of having bad debts until after he began seeking a security clearance. He recently purchased a home and his most recent credit report shows all his debts are current. (Tr. 82, 84; GE 5; AE C1 – C5)

The status of Applicant's delinquent debts is as follows:

**SOR ¶ 2.a-\$5,435.** Applicant settled this credit-card debt in June 2021 and provided documentation corroborating the settlement. This debt is resolved. (Tr. 83; AE A13)

**SOR ¶ 2.b-\$4,478.** Applicant received an IRS 1099-C, cancellation of debt form for this debt for tax year 2020. He provided documentation corroborating the cancellation. This debt is resolved. (Tr. 86-87; AE A14)

**SOR ¶ 2.c-\$4,470.** Applicant received an IRS 1099-C, cancellation of debt form for this debt for tax year 2020. He provided documentation corroborating the cancellation. This debt is resolved. (Tr. 86-87; AE A15)

**SOR ¶ 2.d-\$8,943.** Applicant settled this credit-card debt in June 2021 and provided documentation corroborating the settlement. This debt is resolved. (AE A1, A10)

**SOR ¶ 2.e-\$6,038.** Applicant received an IRS 1099-C, cancellation of debt form for this debt for tax year 2018. He provided documentation corroborating the cancellation. This debt is resolved. (AE A3)

**SOR ¶ 2.f-\$461.** Applicant paid this credit-card debt in August 2021 and provided documentation corroborating the payment. This debt is resolved. (AE A12)

**SOR ¶ 2.g-\$2,280.** Applicant paid this credit-card debt in November 2020 and provided documentation corroborating the payment. This debt is resolved. (AE A9)

**SOR ¶ 2.h-\$402.** Applicant paid this credit-card debt in November 2020 and provided documentation corroborating the payment. This debt is resolved. (AE A11)

**SOR ¶ 2i-\$237.** Applicant paid this credit-card debt in November 2020 and provided documentation corroborating the payment. This debt is resolved. (AE A7)

## **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 are used 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 entire process is a careful weighing 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.

Under Directive ¶ E3.1.14, the Government must 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 applicant or proven by Department Counsel, and 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 that an 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.

Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to 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 security concern relating to the guideline for foreign influence is set out in AG ¶ 7:

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 notes several conditions that could raise security concerns under AG ¶ 7. The following 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;
- (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 nuclear family, consisting of W1, D1, and D2 reside in Egypt as does his extended family consisting of F, B, S1, and S2. Applicant's son is a dual U.S.-Egyptian citizen residing in the United States. Applicant also owns property in Egypt and provides the sole financial support for W1, D1, and D2. He last visited Egypt in 2019, but he has nearly daily contact with his wife and daughters who live there. Egypt is a country with a significant terrorist presence and which has a poor human-rights record. Because of Egypt's posture in these areas, and Applicant's connection to his family, there exists a heightened risk of foreign exploitation, inducement, manipulation, pressure, and coercion. AG ¶¶ 7(a), 7(b), 7(e), and 7(f) have been raised by the evidence. However, I find in favor of Applicant on SOR 1(d), alleging that Applicant provided \$500 monthly to his family living in Egypt, because those are facts and circumstances concerning the family's presence in Egypt and do not raise separate security concerns.

Conditions that could mitigate foreign influence security concerns are provided 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;

(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; 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.

Based upon the continued presence of W1, D1, and D2 in Egypt and their total reliance on Applicant's financial support, a situation exists where Applicant could be placed in a position to choose between the interests of his relatives in Egypt and those of the United States. Although Applicant has lived in the United States since 2008, and he has established substantial ties to this country, three members of his immediate family remain in Egypt. W1's application to become a resident alien was only submitted in June 2021 and will not be acted upon for at least a year. The protection of the national security is the paramount consideration and any doubt must be resolved in favor of national security. I am unable to find any of the mitigating conditions to be fully applicable. Despite the presence of some mitigation, it is insufficient to overcome the significant security concerns that exist.

## **Guideline F, Financial Considerations**

AG ¶ 18 expresses the security concern for financial considerations:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns. I have considered all of them under AG ¶ 19 and the following potentially apply:

(a) inability to satisfy debts; and



(c) a history of not meeting financial obligations.

Appellant had multiple delinquent debts that were unpaid or unresolved. Both of the above disqualifying conditions are raised by the evidence.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Appellant incurred his debts when he was supporting his family living in Egypt and trying to complete college at the same time. While Applicant let the debts remain unaddressed for a significant period, due to his lack of financial resources and his non-comprehension of the security significance of his delinquent debts, he eventually acted responsibly by settling and paying several of the debts and claiming three cancelled debts as income on his federal tax returns. While he should have acted in a timelier manner to address his debts, they all have been paid or otherwise resolved. He has established a track record of steady payments, and his current financial picture appears to be healthy. Both of the above listed mitigating conditions substantially 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(a):

(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 commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

The nature of a nation's government, its relationship with the United States, and its human-rights record are relevant in assessing the likelihood that an applicant's associates are vulnerable to government coercion. Applicant has not overcome the vulnerability to pressure, coercion, exploitation, and duress created by his relationship to relatives in Egypt. If W1, D1, and D2 eventually come to reside in the United States with Applicant, then at that time, a review of his relationships with any Egyptian relatives to determine any existing vulnerabilities may be appropriate, but that time is not now.

I have considered Applicant's circumstances in immigrating to the United States and his accomplishments since coming here. On the other hand, I have also considered the continued risk that is posed by the presence of his family members in Egypt.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the foreign influence security concerns. He did mitigate the financial consideration 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, Guideline B:	AGAINST APPLICANT
Subparagraphs 1.a – 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e – 1.h:	Against Applicant
Paragraph 2, Guideline F:	FOR APPLICANT
Subparagraphs 2.a - 2.i:	For Applicant

## **Conclusion**

In light of all of the circumstances, 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.

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Robert E. Coacher  
Administrative Judge