



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



In the matter of: )  
)  
) ISCR Case No. 22-02469  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Aubrey M. De Angelis, Esquire, Department Counsel  
For Applicant: *Pro se*

10/05/2023

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**Decision**

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GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding foreign influence. Eligibility for access to classified information is granted.

**Statement of the Case**

On July 2, 2021, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On September 9, 2021, the U.S. Office of Personnel Management (OPM) interviewed him. On January 20, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Services (CAS) issued a Statement of Reasons (SOR) to him under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016) (AG), effective June 8, 2017.

The SOR alleged security concerns under Guideline B (Foreign Influence) and detailed reasons why the DCSA CAS adjudicators were unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

On January 28, 2023, and again on January 30, 2023, Applicant responded to the SOR and elected to have his case decided on the written record in lieu of a hearing (Item 2). A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by the Defense Office of Hearings and Appeals (DOHA) on March 30, 2023, and he was afforded an opportunity after receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudication Guidelines applicable to his case. Applicant received the FORM on April 26, 2023. His response was due on May 26, 2023. Applicant timely responded to the FORM, and it was admitted without objection. The case was assigned to me on August 1, 2023.

### **Rulings on Procedure**

Department Counsel requested that I take Administrative Notice of certain enumerated facts pertaining to the Arab Republic of Egypt (Egypt), appearing in extracts of ten written submissions issued by various U.S. Government sources. Facts are proper for Administrative Notice when they are easily verifiable by an authorized source and relevant and material to the case. In this instance, the Government relied on source information regarding Egypt in publications of the Department of State, the Department of Justice, the Central Intelligence Agency, the Office of the Director of National Intelligence, and the U.S. Mission to International Organizations in Geneva.

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)). The most common basis for administrative notice at ISCR proceedings is to notice 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). Requests for administrative notice may utilize authoritative information or sources from the internet. See, e.g. *Hamdan v. Rumsfeld*, 126 S.Ct. 2749 (2006) (citing internet sources for numerous documents).

After weighing the reliability of the source documentation and assessing the relevancy and materiality of the facts proposed by the Government, pursuant to Rule 201, *Federal Rules of Evidence*, I take administrative notice of certain facts, as set forth below under the Foreign Influence Section, found in the Egypt subsection. However, while I do not reject the facts set forth in the press releases issued by the U.S. Department of Justice, any inference that Applicant or his family participated in criminal activity was not argued by the Government and is specifically rejected.

## **Findings of Fact**

In his response to the SOR, Applicant admitted, with brief comments, all the SOR allegations pertaining to foreign influence (SOR ¶¶ 1.a. through 1.d.). The information in his Answer to the SOR as well as the extensive comments set forth in his Response to the FORM are incorporated herein. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact.

### **Background**

Applicant is a 65-year-old Egyptian-born naturalized U.S. citizen. He came to the United States on a tourist visa in 1999, applied for permanent residence in 2000, and became a U.S. citizen in June 2019. He remained a dual citizen and has retained his Egyptian passport. However, he would be willing to renounce his Egyptian citizenship and surrender his Egyptian passport if necessary (Item 3 at 8, 25; Item 5 at 4, 6) He is an employee of a defense contractor and has been serving as a security professional since December 2020. He previously worked for other employers as a site security supervisor (September 2017 – December 2020); shuttle bus driver (June 2017 – November 2018); customs protection officer (July 2015 – December 2016); chief security officer for an American hotel in Egypt (June 2004 – January 2012); and director of security at a mall in Egypt (January 2012 – June 2013). He received a bachelor's degree from an Egyptian University. He served as a military policeman with the Egyptian Armed Forces for about 25 years and was honorably retired in the rank of colonel. He has never held a U.S. security clearance. He was married in 1984. He has two adult children.

### **Foreign Influence**

Both of Applicant's parents, now deceased, were Egyptian-born citizen residents. (Item 3 at 32-33) His wife, a retired art teacher at a primary school, and two children are Egyptian-born citizens who first came to the United States on tourist visas with Applicant in 1999; applied for permanent residence in 2000; and received renewed tourist visas by periodically traveling back and forth to Egypt. His wife and younger child (E) were granted permanent U.S. residence status when they were issued Permanent Resident Cards (Green Card) in 2013, but, because of a quirk in the law, his eldest child was no longer eligible to be included in the family unit because the 13-year delay from application to approval had aged her out of eligibility. She has since married and is residing in Egypt. They generally have monthly contact by phone or messenger. (Item 4 at 34) The children were initially enrolled in school in the United States, and at the end of the school year in May 2001, Applicant's wife and their children traveled back to Egypt for summer vacation. (Response to FORM at 1-3)

At about the same time they departed for their summer vacation, Applicant was involved in an automobile accident. He underwent three months of physical therapy until August 2001, and he was scheduled for two different surgeries on September 1, 2001 (hand), and September 15, 2001 (knee) – delayed until October 6, 2001. His

tourist visa was set to expire on September 15, 2001. After the first surgery was completed, he sought to obtain an extension for his visa based on medical conditions, but because of the terrorist attacks on September 11, 2001 (9-11), the offices were closed and then the request was denied. Applicant's wife was unable to return to the United States to assist him due to the security situation following the attacks, and because of his first surgery, he was unable to grip a cane to walk. In late October or early November 2001, Applicant was arrested by agents from the Immigration and Naturalization Service (INS) and the Federal Bureau of Investigation (FBI) for overstaying his visa. He was told that the fact that his family had departed the United States, his religion, and his former military rank were sensitive circumstances because of the 9-11 attacks. He spent 80 days in jail and an immigration judge refused to grant him any positive resolution to extend his visa, continue his physical therapy, or be released on bail. He was released when he agreed to return to Egypt and purchased his ticket but was not allowed to gather his belongings from his home. He was labeled as non-criminal and was not required to have an escort when he returned to Egypt. And then the world was impacted by COVID-19. Nevertheless, he eventually received his Green Card and was welcomed back to the United States after the multi-year delay. (Response to FORM at 1-3)

Applicant noted that he considers himself to be a very good citizen with no criminal record, an excellent credit score, and a taxpayer who respects all laws. He holds no grudges against anyone over his treatment following 9-11 and, as someone who has worked in security in Egypt and the United States, actually supported such actions. He selected the United States to be his future country for himself and his grandchildren, and he swore an oath of allegiance to the United States when he became a U.S. citizen. (Response to FORM at 2)

Applicant's oath of U.S. citizenship in 2019 was as follows:

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will bear arms on behalf of the United States when required by the law; that I will perform noncombatant service in the Armed Forces of the United States when required by the law; that I will perform work of national importance under civilian direction when required by the law; and that I take this obligation freely, without any mental reservation or purpose of evasion; so help me God.

*<https://www.uscis.gov/us-citizenship/naturalization-test/naturalization-oath-allegiance-united-states-america>*

When Applicant was interviewed by an investigator from the U.S. Office of Personnel Management (OPM) in September 2021 by video-teleconference and telephone, those interviews were conducted under "COVID-19 exigent circumstances

guidance” according to the investigator. Upon viewing the summary of the OPM interviews, Applicant disputed significant aspects of the summary, claiming they were inaccurate. At the time of the interviews, Applicant’s wife and daughter were temporarily residing in Egypt because of COVID-19, and they weren’t permitted to travel to the United States. Eventually, they both returned to the United States and resided in the same residence while his daughter gave birth. They were infected with COVID-19. Applicant’s wife and youngest child reside in the United States, awaiting naturalization. (Response to FORM)

Applicant also has a brother, a retired administration clerk; and two sisters, one a retired teacher, and the other a retired civil engineer who worked for the city. All three siblings are Egyptian-born citizen residents. They generally have weekly (with his brother), monthly or quarterly (with his sisters) contact by phone or messenger. (Item 4 at 36-39; Item 5 at 10-11) Other than his own military past, no member of his family is or was affiliated with the Egyptian government, military, security, defense industry, foreign movement, or intelligence service. (Item 4 at 31-39)

After Applicant returned permanently to the United States in 2013, he continued to maintain periodic online or telephone contact with a friend who served with him in the Egyptian military who is now retired. However, such communication is difficult because of the distance and time difference, and although Applicant described the relationship as “somewhat close,” it is not extremely close. (Item 5 at 11-12)

Other than his \$600 monthly retirement pension for his military service, Applicant has no financial interests in Egypt. He characterized the pension as of “minimal importance” to his overall financial situation, and it would not cause him to have divided loyalties with the United States and Egypt or make him vulnerable to influence or exploitation if threatened. (Item 5 at 6-7)

## **Egypt**

Egypt is a republic governed by an elected president and bicameral legislature. Two Egyptian presidents were removed from office in 2011 and 2013. In 2014, a new constitution was approved by referendum, and in May 2014, former Defense Minister Abdel Fatah al-Sisi was elected president. A new legislature was elected in 2015 and the president was reelected to a second four-year term in 2018. An April 2019 national referendum established a set of constitutional amendments extending al-Sisi’s term in office through 2024 and possibly through 2030 if re-elected for a third term. Egypt was under a government declared State of Emergency for all of 2019 and has been since the April 2017 terrorist attacks on Coptic Churches.

Egypt and the United States belong to several the same international organizations, including the United Nations, International Monetary Fund, World Bank, and World Trade Organization. Egypt is a Partner for Cooperation with the Organization for Security and Cooperation in Europe, an observer to the Organization of American States, a partner in the NATO Mediterranean Dialogue, and a non-party state to the International Criminal Court. Cairo hosts the headquarters of the League of Arab States.

The United States established diplomatic relations with Egypt in 1922, following its independence from protectorate status under the United Kingdom. The United States and Egypt share a strong partnership based on mutual interest in Middle East peace and stability, economic opportunity, and regional security. Promoting a stable, prosperous Egypt, where the government protects the basic rights of its citizens and fulfills the aspirations of the Egyptian people, will continue to be a core objective of U.S. policy.

U.S. assistance to Egypt has long played a central role in Egypt's economic and military development and in furthering the strategic partnership and regional stability. Since 1978, the United States has provided Egypt with what now totals over \$50 billion in military and \$30 billion in economic assistance.

Egypt and the United States signed a Bilateral Investment Treaty in 1982 to promote and facilitate investment between the two countries. Egypt and the United States have signed a trade and investment framework agreement, a step toward creating freer trade and increasing investment flows. American firms are active in most sectors of the Egyptian economy, including oil and gas exploration and production, financial services, manufacturing, construction, telecommunications technology, information technology, and the restaurant and hospitality industry. Flows of U.S. direct investment to Egypt were \$1.37 billion in 2019, bringing the accumulated long-term stock of U.S. foreign direct investment to nearly \$24 billion.

The U.S. has been largely involved in the Multinational Force & Observers (MFO) operation since 1982. The MFO is a peacekeeping operation that supervises and monitors the implementation of the security provisions of the 1979 Egyptian-Israeli Treaty of Peace.

Examples of recent cooperation between the United States and Egypt are as follows: on March 14, 2021, an Egyptian ship and a U.S. ship performed a passing exercise; on February 23, 2021, Secretary of State Antony J. Blinken's call with Egyptian Foreign Minister Sameh Shoukry occurred; on December 17, 2020, USTDA supported major refinery upgrades in Egypt; on August 24, 2020, the Texas National Guard and Egyptian military began a long-term military partnership; on August 17, 2020, Secretary of State Michael R. Pompeo certified that Egypt is sustaining the strategic relationship with the United States and meeting its obligations under the 1979 Egypt-Israel Peace Treaty; and on January 8, 2019, an agreement was signed in Cairo regarding defense cooperation between the United States and Egypt and entered into force.

The U.S. Department of State travel advisory for Egypt is Level 3:

Exercise increased caution due to terrorism and the Embassy's limited ability to assist dual national U.S. Egyptian citizens who are arrested or detained. Do not travel to the Sinai Peninsula (with the exception of travel to Sharm El-Sheikh by air) or the Western Desert due to terrorism, and to the Egyptian border areas due to military zones. The U.S. Government has limited ability

to provide emergency services to U.S. citizens anywhere in the Sinai Peninsula, as U.S. Government employees are not authorized to travel to these areas (with the exception of the beach resort of Sharm El-Sheikh; travel to Sharm El-Sheikh is permitted only by air).

Egypt's borders are under military control; movement of non-military persons and vehicles is substantially restricted, and in some cases prohibited within these areas. Terrorist groups continue plotting attacks in Egypt. Terrorists may attack with little or no warning, and terrorists have targeted diplomatic facilities, tourist locations, transportation hubs, markets, shopping malls, western businesses, restaurants, resorts, and local government facilities. Terrorists have conducted attacks in urban areas, including in Cairo, despite the heavy security presence. Terrorists have targeted religious sites, to include mosques, churches, monasteries, and buses traveling to these locations.

The U.S. Department of State has assessed Cairo as being a critical-threat location for terrorism directed at or affecting official U.S. Government interests. Several terrorist organizations operate in Egypt. The Islamic State-Sinai Province terrorist group (also known as Ansar Bayt al-Maqdis (ABM), an ISIS affiliate) is the most active terrorist group in Egypt; it pledged allegiance to ISIS in 2014. In January 2021, the Department of State increased sanctions against HASM by designating the group as a Foreign Terrorist Organization under Section 219 of the Immigration and Nationality Act.

Most terrorist attacks in Egypt occur in the Sinai Peninsula and largely target security forces, but terrorist attacks targeting civilians, tourists, and security personnel in mainland Egypt remain a concern. Though early 2020 witnessed a series of improvised explosive device (IED) incidents in greater Cairo, those incidents became more infrequent as the year progressed. ISIS-Sinai Province (ISIS-SP) carried out the majority of the attacks, though it claimed no attacks in mainland Egypt and no attacks against Western interests. ISIS-SP responded to ISIS's call to increase attacks to avenge the terrorist group's territorial defeat in Syria in March. There were at least 234 terrorist attacks across the country in 2020. Harakat Sawa'd Misr (HASM) and al-Qa'ida allied groups such as Ansar al-Islam are believed to be behind the spate of anti-western attacks in mainland Egypt. Several terrorism-related incidents were reported on Egyptian news and on Egyptian social media in 2020, and included small arms attacks, IEDs, vehicle borne IEDs, kidnappings, executions, complex assaults, ambushes, and targeted assassinations.

According to the U.S. Department of State, human rights issues in Egypt include arbitrary or unlawful killings, including incidents that occurred while making arrests or holding persons in custody or during disputes with civilians. There were also reports of civilians killed during military operations in Sinai. Impunity was a problem. There were instances of persons tortured to death and other allegations of killings in prisons and detention centers. The government charged, prosecuted, and convicted perpetrators in some cases.

## 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. The President has authorized the Secretary of Defense or his designee to grant an applicant 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 and modified.)

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. The entire process is a conscientious scrutiny 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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.” “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)). “Substantial evidence” is “more than a scintilla but less than a preponderance.” (*See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994).)

The Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. 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).*)

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.” (*Egan*, 484 U.S. at 531)

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) 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 as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

### **Analysis**

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

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

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 two conditions that could raise security concerns under AG ¶ 7:

(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.

Applicant's wife, two children, three siblings, and a friend from his military days are all Egyptian citizens. One of his children, his three siblings, and his friend are also residents of Egypt. His wife and one child reside in the United States as permanent residents awaiting the naturalization process to proceed to enable them to become U.S. citizens. His contacts with some of them are manifestations of his care and concern for relatives and close friends residing in Egypt.

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 [or trustworthiness] 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)).

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. 08-02864 at 4-5 (App. Bd. December 29, 2009) (discussing problematic visits of applicant's father to Iran). Applicant's continuing relationship with his siblings, a child, and a friend, as well as his continuing relationship with his wife and youngest child, and his military pension, are the current concerns for the Government. However, the security significance of these identified concerns requires further examination of those relationships and financial interests to determine the degree of "heightened risk" or potential conflict of interest.

In assessing whether there is a heightened risk because of an Applicant's relatives and friends in a foreign country, it is necessary to consider all relevant factors, including the totality of an Applicant's conduct and circumstances, including the realistic potential for exploitation. One such factor is the potential for pressure, coercion, exploitation, or duress. In that regard, it is important to consider the character of the foreign power in question, including the government and entities controlled by the government, within the relevant foreign country. Nothing in Guideline B suggests it is limited to countries that are hostile to the United States. In fact, we must avoid reliance on overly simplistic distinctions between 'friendly' nations and 'hostile' nations when adjudicating cases under Guideline B.

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. 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 Egypt with the United States, the situation in Egypt, including crime and terrorism, place a burden of persuasion on Applicant to demonstrate that his relationships with any family member or friend living in Egypt does not pose a security risk. Applicant should not be placed into a position where he might be forced to choose between loyalty to the United States and a desire to assist relatives or a friend living in Egypt.

There are terrorist groups active in Egypt; increased levels of terrorism, violence, and insurgency; and human rights problems in Egypt that demonstrate that a heightened risk of exploitation, coercion or duress are present due to Applicant's ties to his family and a friend. However, that risk is not generated by the Egyptian government, but by terrorists striking out against the central Egyptian authorities and all foreigners. Applicant's family members and his friend residing in Egypt are potential targets in this war on civilized humanity. The presence of terrorist groups and increased levels of terrorism, violence, and insurgency in Egypt have also been described concerning events occurring on 9-11, and more recently in Fort Hood, Boston, Paris, Nice, Orlando, San Bernardino, and New York City. However, as noted above, based on their relationships, there is a potential, but greatly reduced, "heightened risk" of foreign exploitation, inducement, manipulation, pressure, or coercion to disqualify Applicant from holding a security clearance.

While there is no evidence that intelligence operatives, criminals, or terrorists from or in Egypt seek or have sought classified or economic information from or through Applicant or his family members or his friend, 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 Egypt has a significant problem with terrorism and crime. Applicant's family members and his friend in Egypt could be a means through which Applicant comes to the attention of those who seek U.S. information or technology and who would potentially attempt to exert coercion upon him.

I am persuaded that Applicant's loyalty to the United States is steadfast and undivided, even after the challenging treatment he received from U.S. authorities following the post 9-11 hysteria and that, after remaining in Egypt for so many years legally awaiting his eventual return to the country that he and his family loved and wished to have as their home, he has such deep and longstanding relationships and loyalties in the U.S., that he can be expected to resolve any potential conflict of interest in favor of the U.S. interest. In this instance, because of his background, the degree of "heightened risk" or potential conflict of interest is dramatically reduced to nearly zero. Nevertheless, because of the evidence related to his family and a friend in Egypt, AG ¶¶ 7(a), 7(b), and 7(e) have been established. Further inquiry is appropriate to determine potential application of any mitigating conditions.

AG ¶ 8 lists some 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; and

(e) 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.

As indicated above, Applicant's eldest daughter, three siblings, and a friend are all citizen-residents of Egypt. He and his eldest daughter generally have monthly contact by phone or messenger. The relationship with his siblings is apparently different based on the frequency of contact that they all maintain. His primary method of communication with them remains telephone or messenger. His wife, youngest daughter, and grandchild reside in the United States, and they maintain frequent contact. His contacts with the entire family and his friend reflect his varying degree of care and concern for those relatives and his friend residing in Egypt.

The Appeal Board has concluded that contact every two months or more frequently constitutes “frequent contact” under AG ¶¶ 7 and 8. ISCR Case No. 14-05986 at 3-4 (App. Bd. Oct. 14, 2016). See *also* ISCR Case No. 04-09541 at 2-3 (App. Bd. Sep. 26, 2006) (finding contacts with applicant’s siblings once every four or five months not casual and infrequent.) Frequency of contact is not the sole determinant of foreign interest security concerns based on connections to family. “[I]nfrequency of contact is not necessarily enough to rebut the presumption an applicant has ties of affection for, or obligation to, his or her own immediate family as well as his or her spouse’s immediate family.” ISCR Case No. 17-01979 at 4 (App. Bd. July 31, 2019). Applicant cares for his family.

A key factor in the AG ¶ 8(b) analysis is Applicant’s “deep and longstanding relationships and loyalties in the U.S.” He has significant connections to the United States. He has been a resident of the United States for over a decade, and a naturalized U.S. citizen for four years. He and his family followed the U.S. immigration rules and waited in Egypt before coming to the United States legally, not by ignoring the laws and joining the masses of undocumented individuals who came across the border without proper authority. His wife and youngest child once again reside in the United States as permanent residents awaiting naturalization as U.S. citizens. And he has a native-born American grandchild. He intends to continue to work in the United States and continue raising his family here.

Other than his \$600 monthly retirement pension for his military service, Applicant has no financial interests in Egypt. That amount is insignificant and of “minimal importance” to his overall financial situation, and it is extremely doubtful that it could make him vulnerable to influence or exploitation if threatened. Applicant’s one disappointment is that the immigration process took so long, that his eldest daughter’s eligibility to remain with the family unit was eventually denied.

There is no evidence that Applicant’s eldest daughter, three siblings, or his friend are or have ever been political activists, challenging the policies of the Egyptian government; that terrorists have approached or threatened them for any reason; that the Egyptian government or any terrorist organization have approached them; or that they currently engage in activities that would bring attention to themselves. As such, there is a reduced possibility that they would be targets for coercion or exploitation by the Egyptian government or the terrorists, which may seek to quiet those who speak out against them. Also, there is no evidence that while Applicant was still residing in Egypt awaiting the issuance of his Green Card that he had been approached or threatened for any reason. Under these circumstances, the potential heightened risk created by their residence in Egypt is greatly diminished. Under the developed evidence, it is unlikely Applicant 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.

It is important to be mindful of the United States’ relationship with and historical investments in Egypt. Egypt is an important U.S. ally in combatting terrorism after 9/11, and it has been a leading recipient of U.S. assistance, receiving tens of billions of

dollars in aid. Egypt and the United States are essentially allies with the goal of maintaining peace and stability in the Middle East as well as the security of Israel. Applicant has met his burden of showing there is little likelihood that relationships with his eldest child, siblings, and a friend could create a risk for foreign influence or exploitation.

I am persuaded that Applicant's loyalty to the United States is steadfast and undivided, and that he has "such deep and longstanding relationships and loyalties in the U.S. that he can be expected to resolve any conflict of interest in favor of the U.S. interest." AG ¶¶ 8(a), 8(b), and 8(c) have been established and they fully mitigate 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 SEAD 4, App. A, ¶ 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 SEAD 4, App. A, ¶ 2(c), the 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. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. (*See U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966))

There is some evidence against mitigating Applicant's foreign influence. A variety of terrorist groups operate in Egypt. For many years, terrorists, insurgents, and criminal actors have carried out major attacks against civilians in urban areas, including in Cairo, despite the heavy security presence. They have targeted diplomatic facilities, tourist locations, transportation hubs, mosques, churches, monasteries, markets, shopping malls, western businesses, restaurants, resorts, and local government facilities. Egypt's borders are under military control; movement of non-military persons and vehicles is substantially restricted, and in some cases prohibited within these areas. The U.S. Department of State travel advisory for Egypt is Level 3: Exercise increased caution due to terrorism. According to the U.S. Department of State, human rights issues in Egypt include arbitrary or unlawful killings, including incidents that occurred while making arrests or holding persons in custody or during disputes with civilians. There were also reports of civilians killed during military operations in Sinai. Impunity was a problem.

There were instances of persons tortured to death and other allegations of killings in prisons and detention centers. The government charged, prosecuted, and convicted perpetrators in some cases.

Applicant's eldest daughter, three siblings, and his friend are Egyptian citizen-residents, and he continues to maintain varying degrees of contact with each of them. Applicant also receives a monthly pension of \$600 following his retirement from the Egyptian Armed Forces.

The mitigating evidence under the whole-person concept is simply more substantial. Applicant is a 65-year-old Egyptian-born naturalized U.S. citizen. He came to the United States on a tourist visa in 1999, applied for permanent residence in 2000, and became a U.S. citizen in June 2019. He remained a dual citizen and has retained his Egyptian passport. However, he would be willing to renounce his Egyptian citizenship and surrender his Egyptian passport if necessary. He is an employee of a defense contractor and has been serving as a security professional since December 2020. He previously worked for other employers as a site security supervisor; shuttle bus driver; customs protection officer; chief security officer for an American hotel in Egypt; and director of security at a mall in Egypt. He received a bachelor's degree from an Egyptian University. He served as a military policeman with the Egyptian Armed Forces for about 25 years and was honorably retired in the rank of colonel.

Applicant's wife and youngest child are permanent U.S. residents awaiting U.S. naturalization. He now has a native-born American grandchild. After the challenging treatment he received from U.S. authorities following the post 9-11 hysteria, he remained in Egypt for many years legally awaiting his eventual return to the country that he and his family loved, not by ignoring the laws and joining the masses of undocumented individuals who came across the border without proper authority.

Overall, the evidence leaves me without any questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has successfully mitigated the security concerns arising from his foreign influence issues. See SEAD 4, App. A, ¶¶ 2(d)(1) through 2(d)(9).

### **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: FOR APPLICANT

Subparagraphs 1.a. through 1.d.: 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's eligibility for a security clearance. Eligibility for access to classified information is granted.

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ROBERT ROBINSON GALES  
Administrative Judge