



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



In the matter of:)
)
) ISCR Case No. 22-02397
)
Applicant for Security Clearance)

Appearances

For Government: Brittany White, Esq., Department Counsel
For Applicant: Alan V. Edmunds, Esq.

01/22/2024

Decision

Curry, Marc E., Administrative Judge:

Applicant mitigated the security concerns generated by his family members who are citizens and residents of Lebanon. Clearance is granted.

Statement of the Case

On January 18, 2023, the Defense Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline B, foreign influence, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action 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 National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On April 5, 2023, Applicant answered the SOR, admitting all the allegations, and requesting a hearing, whereupon the case was assigned to me on July 18, 2023. On August 10, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice of video teleconference hearing, scheduling the case for September 19, 2023.

The hearing was conducted as scheduled. I received five Government exhibits, marked as Government Exhibit (GE) 1 through GE 5, 15 Applicant exhibits, marked as Applicant's Exhibit (AE) A through AE O, and Applicant's testimony. At the Government's request, I took administrative notice of the information set forth in 12 documents regarding Lebanon, identifying them as Hearing Exhibit (HE) I through HE XII. At the close of the hearing, I left the record open at Applicant's counsel's request, to allow him to submit additional exhibits. Within the time allotted, counsel submitted six exhibits that I identified as AE P through AE U. Department Counsel did not object to their admissibility and I incorporated them into the record. The transcript (Tr.) was received on September 28, 2023.

Findings of Fact

Applicant is a 44-year-old, married man with one child, age 11. He was born and raised in Lebanon. In 1996, during his senior year in high school, he immigrated to the United States. After graduating from high school, he enrolled in a U.S. college and earned a degree in business administration. (Tr. 17) He has been a naturalized U.S. citizen since 2002. (AE A) Currently, he works for a defense contractor, stationed overseas as a linguist and cultural advisor. (Tr. 16) He has worked in this field for more than 15 years and has held a security clearance since 2006. (Tr. 32; GE 1 at 8)

Throughout Applicant's career, he has been highly respected by his peers and supervisors. The director of operations, an upper-level supervisor at his current employment described his work performance as "phenomenal." (AE L at 1) According to Applicant's direct supervisor, he is an "inspiring leader for the team [whose] knowledge and understanding of cultural, ethnic, geopolitical and language skills assisted the military in strengthening the safety and security of the deployed troops in the region." (AE D at 3) Moreover, per his supervisor, he "has proven to be especially essential at an ongoing series of classified regional, strategic conferences." (AE D) Applicant is particularly skilled at working under pressure, functioning at an extraordinarily high level during a period when the operational tempo of the unit that he supported was at a record level. (AE D at 5)

During the course of Applicant's career as a translator, he has worked in combat zones escorting troops on various missions. Like the troops, he occasionally came under fire and has had to discharge his firearm in firefights on a couple of occasions. (Tr. 34) An intensely patriotic man, Applicant has a tattoo of an American flag on his arm. (Tr. 32)

Applicant's wife is a citizen of Poland. (AE 1 at 27) She lives in Poland with their daughter, a dual citizen of Poland and the United States. (Tr. 41) Applicant last saw them in June 2022. They communicate primarily by apps approximately once per week. (Tr. 43) Applicant and his wife are currently separated but are "trying to work it out." (Tr. 39) Applicant owns no property in Poland. (Tr. 41)

Applicant's parents are dual citizens of Lebanon and the United States. Both parents moved to the United States in 1992. His father obtained U.S. citizenship in 2007 and his mother obtained permanent resident status in 1992. Applicant's mother returned to

Lebanon in 2002 and his father returned to Lebanon in 2009. (Tr. 49) Both returned because as they aged, they began to experience more health problems, and the health insurance is less expensive in Lebanon than the United States. (Answer at 2) Applicant talks to his mother approximately three times per week and he talks to his father approximately three to four times per year. He communicates with both parents through *WhatsApp*, an internet chat application. (Answer at 1) Applicant provides his parents with \$200 per month of financial support. (Tr. 38)

Applicant has three older brothers who are citizens of Lebanon. (Tr. 29) All of them are naturalized U.S. citizens and two of them live in the United States. (Tr. 47) He is not close to them because they are much older than him. (Tr. 47)

The oldest of the two brothers who lives in the United States immigrated here more than 40 years ago when Applicant was an infant. (Tr. 36; GE 1 at 37) They last spoke approximately ten years ago. (Tr. 36)

The younger of the two brothers living in the U.S. became a naturalized U.S. citizen approximately 18 years ago (Tr. 47) Applicant last saw him in July 2023. (Tr. 37) He does not keep in touch with him. (Tr. 37)

Applicant's third brother, the oldest, age 68, is a dual citizen of Lebanon and the United States. He lives in Lebanon and splits his time between Lebanon and the United States. (Tr. 31) He is a retired brigadier general in the Lebanese army. (Tr. 48) He receives a pension. (Tr. 34-35) Applicant does not keep in touch with him regularly. (Tr. 37) He last saw him in July 2023 when he traveled to Lebanon to visit his parents. (Tr. 37) Applicant's niece, the daughter of his brother the retired brigadier general, is a U.S. citizen and resident. She works for the U.S. government and has a public trust position. (Tr. 32; AE Q)

Applicant's two sisters are citizens and residents of Lebanon. (Answer at 2) Like his brothers, they are much older than him and are not close. Their contact is limited to sharing messages and greetings on birthdays and holidays through *WhatsApp*. (Answer at 3) He sometimes sees them when he travels to Lebanon to visit his parents. The last time they got together was in July 2023. (Tr. 30) Neither of his sisters works for the Lebanese government. (Tr. 30)

All of Applicant's bank accounts are based in the United States. (Tr. 44) He is not a homeowner. (Tr. 44) He has been living on a military base abroad since 2020. (GE 1 at 10-11)

Poland "is a stalwart ally in Central Europe and one of the United States' strongest partners in fostering security and prosperity regionally, throughout Europe, and the world." (AE C at 1) Lebanon is a parliamentary republic which apportions governmental authority among a Christian president, a Shia Muslim speaker of the Chambers of Deputies and a Sunni prime minister. Violent extremist groups, including U.S. government-designated, foreign terrorist organizations such as Hizballah and ISIS train and operate in Lebanon, and have a particularly strong presence in southern Lebanon and south Beirut. (HE IV at 145)

Hizballah continues to develop its global terrorist capabilities as a complement to the group's growing conventional military capabilities and seeks to reduce U.S. influence in Lebanon and the broader Middle East and maintains the capability to target U.S. people and interests in the region. (HE V at 31-33)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of several 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 ¶ 1(d) 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.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances considering the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline B: Foreign Influence

Under this concern, “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.” (AG ¶ 6) Moreover, foreign interests and security concerns “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.” (*Id.*)

Given Poland’s status as one of the United States’ strongest partners in the world in fostering security, I conclude that Applicant’s daughter’s Polish citizenship and residence does not generate a heightened security risk. There are no security risks and I resolve SOR subparagraph 1.b in Applicant’s favor.

Although Lebanon is a parliamentary republic, terrorist groups wield an inordinate amount of influence and virtually control entire regions of the country. Under these circumstances, the presence of Applicant’s family members in Lebanon triggers the application of 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 county if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.”

Applicant never cultivated close relationships with his siblings because they are several years older and had grown up and left home when he was a pre-teen. Two of his brothers live in the United States. One of these brothers living in the United States has been living here for more than 18 years and the other brother living in the United States has lived here for more than 40 years. Although both of Applicant’s sisters live in Lebanon his contact with them is limited. AG ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk of foreign influence of exploitation,” applies.

Applicant’s contact with his brother that splits his time between the United States and Lebanon is similarly casual and infrequent. However, the casual and infrequent nature of their relation is outweighed by the security concern generated by this brother’s previous position as a brigadier general in the Lebanese army. In addition, Applicant’s relation with his parents is clearly not casual because he supports them financially and talks to his mother three to four times per week. Consequently, AG ¶ 8(c) does not mitigate Applicant’s relationship with these relatives living in Lebanon.

Applicant is an intensely patriotic U.S. citizen with a tattoo of an American flag on his arm. He has performed admirably with the U.S. military while working for multiple contractors in support of the U.S. interest, at times, in dangerous situations where he has exchanged fire in combat against enemy forces. This history of support of the United States under the gravest of circumstances is a significant indicator that Applicant would resolve in the U.S. interest any attempts by the Lebanese government or any extranational entity operating in Lebanon to pressure or influence him. (ISCR Case No. 07-00034 at 2 (App. Bd., Feb 5, 2008)) Under these circumstances, I conclude that the mitigating condition set forth in AG ¶ 8(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 resolve any conflict of interests in favor of the U.S. interest,” applies. I conclude Applicant has mitigated the foreign interest security concerns with respect to his family contacts in Lebanon.

Whole-Person Concept

I considered the whole-person factors in my analysis of the disqualifying and mitigating conditions, particularly with respect to my analysis of Applicant’s meritorious service in support of the U.S. military while in combat.

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:

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|---------------------------|---------------|
| Paragraph 1, Guideline B: | FOR APPLICANT |
| Subparagraphs 1.a – 1.e: | For Applicant |

Conclusion

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

Marc E. Curry
Administrative Judge