



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 22-01133
)
Applicant for Security Clearance)

Appearances

For Government: William H. Miller, Esq., Department Counsel
For Applicant: Daniel P. Meyer, Esq.

01/08/2024

Decision

MASON, Paul J., Administrative Judge:

Because of Applicant’s foreign family members and large financial interests in Pakistan, the foreign influence guideline has not been mitigated. Conversely, there is insufficient evidence to conclude that Applicant has a foreign preference for Pakistan over the United States. Eligibility of access to classified information is denied.

Statement of the Case

On March 20, 2020, Applicant signed and certified an Electronic Questionnaire for Investigations Processing (e-QIP) application for a security clearance. This document is identified as Government’s Exhibit (GE) 1. On September 11, 2020, he provided a personal subject interview (PSI) to an investigator from the Office of Personnel Management (OPM). This PSI appears in GE 2. Following a review of Applicant’s investigative case file, the Department of Defense Counterintelligence and Security Agency (DOD) (CSA) could not make the preliminary affirmative findings required to grant a security clearance. DOD issued to Applicant a Statement of Reasons (SOR), dated August 8, 2022, detailing security concerns under the guidelines for foreign influence (B) and foreign preference (C). The action was taken under DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*

(January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), June 8, 2017.

Applicant provided his answer to the SOR on September 2, 2022. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on June 5, 2023, for a hearing on June 27, 2023. The hearing was held via Teams teleconference services as scheduled. The Government's two exhibits, GE 1 and 2, were entered into evidence without objection. Applicant's exhibits, originally identified as Tabs, are remarked as Applicant's Exhibits (AE). AE C, D, E, and G were admitted into evidence without objection. Applicant's brief contains other DOHA decisions that generates probative insight on the circumstances of this case. This brief and Applicant's closing statements have been evaluated. AE A, B, and F are procedural items tracking the case and explaining Applicant's rights at the hearing, and also a case management order detailing the parties' responsibilities in submitting exhibits prior to the hearing. However, the exhibits do not constitute evidence. DOHA received the transcript (Tr.) and the record closed on July 7, 2023.

Administrative Notice

I have taken administrative notice of certain relevant facts related to Pakistan. The facts, which are limited to matters of general knowledge and not subject to reasonable dispute, come from source material published by the Department of State and Department of Justice. The source material includes joint statements, fact sheets, and remarks published by the White House and the Secretary of State (through the Department of State). The administrative notice memorandum and supporting documents is marked as Hearing Exhibit (HE) 5.

Rulings on Procedure

On July 5, 2023, Applicant submitted an errata sheet requesting corrections be made to the transcript of the hearing dated June 27, 2023. This document is identified as Hearing Exhibit (HE) 1. Also, on July 5, 2023, Applicant requested additional corrections be made to the transcript. (HE 2) On July 28, 2023, Department Counsel submitted the Government's responses to Applicant's proposed corrections to the transcript. (HE 3) Later the same day, Applicant indicated he had no disputes with the positions taken by the Government concerning the proposed corrections. (HE 4) The four exhibits are part of the record. (HE 1 through 4).

Findings of Fact

The first paragraph of the SOR alleges foreign influence because Applicant's sister, brother-in-law, two uncles, a cousin, and a friend (currently serving as vice president of a national Pakistani engineering service), are citizens and residents of Pakistan. (SOR ¶¶ 1.a through 1.d) As alleged by the SOR ¶¶ 1.e, 1.f, Applicant has

multiple friends, one of which is a minister of maritime affairs of Pakistan, who are citizens and residents of Pakistan.

The first paragraph of the SOR also alleges that Applicant maintains the following bank accounts in Pakistan: SOR ¶ 1.g, two bank accounts amounting to \$120,000; SOR ¶ 1.h, a joint bank account with his sister (SOR ¶ 1.a) with an approximate value of \$4,000; and ¶ 1.i, a bank account containing \$3,000. The SOR alleges Applicant owns a car in Pakistan valued at \$6,000. (SOR ¶ 1.j) According to the SOR, he will inherit real property in Pakistan from his deceased mother and father amounting to between \$3,300,000 and \$4,300,000. (SOR ¶ 1.k) The SOR alleges that between August 2014 and January 2020, Applicant worked full time or part time, either remotely or in Pakistan, on four projects affiliated with the Pakistani government. (SOR ¶¶ 1.l-1.0)

The second paragraph of the SOR alleges foreign preference security concerns based on the allegations set forth in the first paragraph of the SOR (SOR ¶¶ 1.l through 1.o), as they show a divided allegiance and raise the potential that the individual may be manipulated to help a foreign government (Pakistan) in a way inconsistent with U.S. security interests. Applicant admitted all factual allegations of the SOR. The facts in this decision do not identify employment, employers, or geographical locations to protect Applicant's privacy. The specific identities can be found in the exhibits admitted into evidence.

Applicant, born in Pakistan in 1971, is 52 years old. In 1993, he received his bachelor's degree in environmental engineering. (AE C) After working for a consulting firm between 1993 and 1995, he immigrated to the United States in 1995 (Tr. 41-42). He earned a master's degree in environmental engineering in 1997, and a PhD in 2003. (GE 1 at 8-22; Tr. 14-15)

Applicant began employment as a part-time research associate for State D in May 1999. From 2002 to 2009, he worked as an environmental engineer in State D. Between 2006 and March 2014, he worked as a senior research scientist for a company in State B. Applicant was unemployed from March to August 2014. (GE 1 at 15-22) Between August 2014 and January August 2018, he worked at least part time in Pakistan or remotely for Pakistani universities or agencies of the Pakistani government. Some of his employment during the period overlapped. He became a U.S. citizen in February 2015. He has been working for his current U.S. employer since August 2018. He is a dual citizen of Pakistan and the United States. (GE 1 at 8-22; Tr. 39-40)

SOR ¶ 1.a – Applicant's sister is 61 years old and a citizen and resident of Pakistan. She was a doctor at a Pakistani Naval hospital, but is currently a homemaker. In March 2020, Applicant had weekly contact with her and his other 57-year-old sister (a naturalized U.S citizen residing in State F) through social media, in-person and by phone. During these interactions, they exchange pleasantries or discuss family matters. She visited Applicant in 2002 with her son. Also, he spent time with both sisters in State F after their mother passed away in 2021. (GE 1 at 30-31; GE 2 at 9; Tr. 42-43; AE C (Applicant's Declaration) at 4-5)

SOR ¶ 1.b – Applicant’s brother-in-law is a citizen and resident of Pakistan and retired from the Pakistani Navy as a commander. He is currently a real estate broker. He is married to Applicant’s oldest sister described in SOR ¶ 1.a. Applicant does not have much contact with him and does not like him. (GE 1 at 29, 37-38; GE 2 at 10; Tr. 44-46; AE C (Applicant’s Declaration at 4-5))

SOR ¶ 1.c – Applicant’s two uncles and a cousin are citizens and residents of Pakistan. Applicant’s 88-year-old uncle on his mother’s side, is Applicant’s mother’s brother. He retired in the early 1990s from a professorial position. He is in poor health. He is married with no children. He cares for Applicant’s mother’s property. Applicant contacts him once a month by phone. (GE 1 at 37; Tr. 48-50; AE C (Applicant’s Declaration at 8))

Applicant’s second uncle (age unknown) on his father’s side, cares for Applicant’s father’s property. He has never been employed. Applicant contacts him once a month to every few months. This uncle has two daughters over the age of 50 who live with him. The uncle jointly owns Applicant’s father’s property with one or two brothers and Applicant. (GE 1 at 38; GE 2 at 10; Tr. 50; AE C (Applicant’s Declaration at 8))

Applicant’s cousin (age unknown) was an anesthesiologist in Pakistan whom Applicant contacted on quarterly basis. The cousin moved to the United States 10 to 12 years ago, and is a permanent resident. Currently, Applicant contacts him every six months. (GE 1 at 40; Tr. 50-51)

SOR ¶ 1.d. – Applicant’s friend, a citizen and resident of Pakistan, was a vice president of a national engineering service for the government of Pakistan. Applicant used to visit him once a month until Applicant returned to the United States in 2018. The friend monitored Applicant’s mother until she passed away in 2021. After he retired from the engineering service he was rehired in some capacity by the service. (GE 1 at 31; GE 2 at 10; Tr. 52-56; AE C (Applicant’s Declaration) at 6)

SOR 1.e – Applicant has multiple friends who are citizens and residents of Pakistan. Applicant knows an individual who he contacts every two months. Applicant sends him \$1,500 every four or five months to maintain his mother’s house and pay salaries and bills. (Tr. 56-57)

Applicant is friends with two resident citizens of Pakistan since 1993. One of the individuals established the engineering firm that employed Applicant after he received his bachelor’s degree in 1993. Applicant’s father hired the engineering firm to build his house in the middle 2000s. After his father died in 2014, the two individuals have helped take care of the father’s house. In 2020, Applicant rented the house to the engineering firm’s chief accountant. The two friends extended care to Applicant’s mother. (Tr. 57-60; AE C (Applicant’s Declaration at 5))

Applicant has another friend that he has known since the sixth grade. This person is an electrical engineer who was recently hired by a Pakistani firm that has a contract with a U.S. firm focusing on investment activity in the country. They have maintained a connection over the years and currently make contact every few weeks through articles they send to each other. (GE 2 at 10; Tr. 60-61; AE C (Applicant's declaration at 6))

SOR 1.f – Applicant has a friend, a citizen and resident of Pakistan, who was a minister in the Pakistani government. The friend became a politician following a political change in the Pakistani government in 2021. Though Applicant considered him only an acquaintance at the hearing, they contact one another every two or three months on social media. Applicant testified his last contact with this person was in 2022. (GE 2 at 14; Tr. 61-66)

SOR ¶ 1.g – Applicant maintains two accounts in Pakistan valued at \$120,000. One is a fixed deposit account that he and his mother opened in 2014. Applicant believes both accounts have decreased in value to \$80,000. His description of these accounts cannot be matched to the account information in his declaration. (GE 1 at 41; Tr. 69; AE C (Applicant's Declaration at 8-9))

SOR ¶ 1.h – Applicant has a joint bank account with his sister in Pakistan with an approximate value of \$4,000. Applicant's sister is now a naturalized U.S. citizen living in State F. There should be more money in the account because it receives rent from tenants at Applicant's father's house in Pakistan. The account has increased in value to about \$10,000. (AE 2 at 11; Tr. 69-70; AE C (Applicant's Declaration at 9))

SOR ¶ 1.i – Applicant has a bank account in Pakistan valued at approximately \$3,000. He used this account while in graduate school. He testified that he was advised to keep account open until he is ready to close the account when he pays all taxes for his Pakistani financial interests. The account still contains about \$3,000. (Tr. 71-72; AE C (Applicant's Declaration at 8))

SOR ¶ 1.j – Applicant owns a car in Pakistan valued at \$6,000. He bought the car as a gift to his father. When his father died, Applicant transferred title to the car to himself. His Pakistani sister uses the car. He uses the car when he is in Pakistan. (GE 1 at 42-43; GE 2 at 12; AE C (Applicant's Declaration at 9))

SOR ¶ 1.k – Applicant will inherit real property in Pakistan from the estate of his deceased mother and father with a value of between \$3,300,000 and \$4,300,000. Applicant indicated the figures were not accurate because of: (1) the exchange rate of depreciation; (2) and the speculative nature of the real estate market. He surmised the figures are less than they were a couple of years ago. (Tr. 72)

Applicant owns a home in Pakistan worth \$175,000. His parents lived there. The contents of the house have to be removed before the house can be sold. (AE C (Applicant's Declaration at 9)) Applicant will inherit another house worth \$280,000, a

plot of land worth \$90,000, agricultural land worth \$1,250,000, and a parcel of agricultural land worth \$500,000. The sum total of the real property values in this paragraph amounts to between \$2,369,600 and \$2,470,000. (GE 2 at 12; Tr. 72-78; AE C (Applicant's Declaration at 10))

Applicant indicated that he understood the Government's concern about his contacts with foreign nationals, and intended to limit his travel and contacts to minimal levels in the future. He indicated that he would try to dispose of his financial interests as soon as possible, and consider relinquishing his property rights or financial interests to siblings or charity. He has a plan to sell six properties and transfer the proceeds to the United States. The other five properties are held jointly with other relatives. He has to pay all taxes through Pakistani bank accounts. Regarding the Pakistani real property, it is a long succession process through the Pakistani court system, and one has to appear in person as the succession process progresses in court. He has finished the process in some cases and in other cases, he has not even started the process. (Tr. 23-25; AE C (Applicant's Declaration at 13)) Applicant provided no documentation to support his claims.

SOR ¶ 1.l – From July 2017 to August 2018, Applicant worked for a Pakistani company on a contract with the Pakistani government. His job was to develop a system for creating microloans. He worked there about 30 to 40% of his time. He earned about \$2,000 a month. He published an article (AE E) in 2018 for the Pakistani government about climate change and air pollution, and its impact on developing countries. His objective was to advise the Pakistani government how to develop its science and technology for the benefit of the civilian sector. (GE 1 at 16-19; GE 2 at 8; Tr. 78-84)

SOR ¶ 1.m – From August 2014 to June 2015, Applicant worked full time for a Pakistani university while living with his mother. He earned between \$2,000 and \$2,500 a month. His job was developing a methodology to assess the impact of human activity on the environment and air quality in Pakistan. (GE 2 at 9; Tr. 84-85)

SOR ¶ 1.n – From January 2017 to August 2018, Applicant worked on a Pakistani planning commission, for the Pakistani government. Applicant explained that he was not paid for his work, but attended some meetings to explore how more military technology could be used for civilian purposes. (Tr. 85-87)

SOR ¶ 1.o – From June 2015 to June 2020, Applicant worked for a university-research project on a contract with the Pakistani government. He provided support for the environmental protection department of the Pakistani government. The specific proposal was to document ways to reduce air pollution. Court hearings had been held on the smog conundrum, and a decision was made in 2017 to formulate an emergency action plan to resolve the air pollution problem. Applicant testified that he has no current relationship with the project. (Tr. 87-89) See AE E.

Between 1995 and 2014, Applicant traveled to Pakistan annually to visit and care for his mother and father. After he became a U.S. citizen in February 2015, he took

14 trips to Pakistan spending at least 12 days to more than 30 days in the country. His last trip to the country was in January 2023. He uses a Pakistani identity card when traveling to Pakistan so he does not have to get a visa. He is willing to relinquish his identity card to keep his employment. (GE 1 at 49-66; GE 2 at 7; Tr. 90)

Applicant does not own a U.S. home. His bank account in the United States contains about \$30,000. He has three U.S. 401(k) retirement accounts totaling \$175,000. He owns no real property in the United States. He does not own a car, but he pays his roommate (Reference I) \$150 dollars a month to use the vehicle. He has no affiliation with any civic groups or organizations in the United States, but he supports his roommate's volunteer work. Applicant believes that his ties of affection that he has developed in the United States are much deeper than the relationships he developed in Pakistan. Applicant plans to retire in the United States. (Tr. 90-93; AE C (Applicant's Declaration at 13))

Since Applicant began working for his employer in August 2018, he has received awards. His four performance reviews have been great. (Tr. 100)

Character Evidence

Character Reference I, the director of a scientific association and manager of an international laboratory, has known Applicant since 2011 when they were both employed at a university in State A. She has shared an apartment in State C with him as his roommate since 2017. Based on a workshop that was recently held in the local area, she considers him to be an accomplished professional. He will not compromise his principles for family or friends. According to Reference I, Applicant could easily divest himself of his share of property owned by his father, but his fidelity to the wishes of his paternal grandfather's will and his uncle's management of the land precludes him from divesting. Similarly, he does not want to sell his mother's property because of the religious importance of the land, and the desire to maintain a soup kitchen that has been on the land for about 75 years according to Applicant, to continue feeding the impoverished people in the area. Applicant is a dedicated American who warrants a security clearance. (GE 1 at 11; AE D at I; AE C (Applicant's Declaration at a 12))

Reference J is a lieutenant colonel in the U.S. Air Force. He is approaching retirement after 32 years of service in various capacities. He met Applicant in 2012. They discussed significant climactic events that have occurred around the world and how to prepare for such events in the future. Reference J worked with Applicant on a study of the Pakistani floods of 2010. The contributions that Applicant made to a research project of the university identified at SOR ¶ 1.0 is in the interest of the U.S. Government. Reference J has never observed Applicant violate security rules in their 11-year working relationship. Based on Reference J's security background and his knowledge of Applicant's employment history, he does not believe Applicant is a candidate for foreign influence or preference. He recommends Applicant for a security clearance. (AE D at J)

Reference G is an engineer at a state university. He has known Applicant since 1997 and directed his PhD research from 1999 to 2003. They have remained in contact and have become close friends over the years. He recommends Applicant for a security clearance. (AE G)

Administrative Notice – Pakistan

Pakistan is a parliamentary Islamic republic with significant internal problems caused by terrorist organizations concentrated in several locations within the country. In September 2012, the United States officially declared the Haqqani Network a foreign terrorist organization.

As of 2014, parts of Pakistan's Federally Administered Tribal Areas, Khyber Pakhtunkhwa province, and Balochistan province were regarded as safe havens for terrorist groups, including al-Qaeda, the Haqqani Network, Tehrik-e Taliban Pakistan, Lasahkar I Jhangvi, and the Afghan Taliban. These groups create ongoing security problems by targeting western interests, U.S. citizens, senior Pakistani officials, minority political groups, and religious entities.

Pakistani military operations in 2014 against some of the terror groups had only marginal success. With the passage of time, there has been an overall decline in the scope and frequency of terrorist attacks. In 2019, the country took coordinated action against several terrorist groups by disrupting their financing and indicting some of their leaders. However, terrorist activity increased substantially in 2021, with insurgents attacking various targets, implementing tactics like improvised explosive devices, vehicle explosive devices, suicide bombing, and assassinations.

The human rights record of Pakistan is not good. Extrajudicial killings, torture, and disappearances have been reported, along with intrusive government surveillance of politicians, political activists, and the media. Government and police corruption, sexual harassment, and gender discrimination are persistent problems. Pakistani government authorities seldom punish government officials for human rights violations.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines, which are flexible rules of law, apply together with common sense and the general factors of 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."

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 in seeking a favorable security decision.

Analysis

Foreign Influence

AG ¶ 6 sets forth the security concerns under Guideline B:

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 nature of a country’s government, its relationship to the United States, and its human rights record, are relevant subjects to consider in evaluating the chances that an applicant’s foreign family members are vulnerable to pressure or influence by a foreign government or interest that may cause Applicant to violate security regulations. Terrorist organizations continue to operate against the United States and Pakistani interests from safe havens within the country. The government has a poor human rights record that is exacerbated by the country’s terrorism and violence. When evaluating an applicant’s ties to foreign family members, the totality of an applicant’s foreign family ties as well as each individual family tie must be considered. Conditions under AG ¶ 7 that could raise a security concern and may be disqualifying include:

- (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

(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.

Contacts and ties with family members who are citizens of a foreign country do not automatically disqualify an applicant from security clearance access. As set forth under AG ¶ 7(a), the contacts are only disqualifying if they create a heightened risk of foreign exploitation. Applicant has a sister, a brother-in-law, two uncles, and multiple friends, who are citizens and residents of Pakistan. His contacts with these foreign family members and friends, have been by phone, face-to-face, and by social media, and have varied from weekly with his oldest sister, monthly with his two uncles, four times a year to every six months with his cousin, once every two months with several friends, and once every few weeks with the former Pakistani minister who Applicant maintains current contact every two or three months on social media. Though his family members have no current link to the Pakistani government, his sister was a doctor at the country's naval hospital, and his brother-in law was a commander in the navy. His friend (SOR ¶ 1.d) who was a former vice president, has been rehired in some capacity in the same organization. The friend who was a minister in one of Pakistan's agencies. agency, is now a politician. (SOR ¶ 1.f) The totality of these contacts and the threat of terrorism in Pakistan generates a heightened risk of coercion or exploitation under AG ¶ 7(a) and a potential conflict of interest under AG ¶ (7(b)).

Applicant's financial and property interests identified in SOR ¶¶ 1.g, 1.h, 1.i, 1.j, and 1.k raise a heightened risk of foreign influence within the purview of SOR ¶ 7 (g) of the foreign influence guideline.

Conditions under AG ¶ 8 that could mitigate security concerns include:

(a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

(b) there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest;

(c) contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation; and

(f) the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual.

AG ¶ 8(a) does not apply. Applicant's sister, uncles, cousin, and friends are residents and citizens of Pakistan. Government operatives or insurgent groups could exert pressure on Applicant through his foreign family members to obtain U.S. classified or sensitive information, or to damage the United States in some other way.

There is insufficient mitigating evidence to find AG ¶ 8(b) in Applicant's favor. He has a 61-year-old sister, a naturalized U.S. citizen, living in State F, and a cousin, a permanent resident of the United States. While Applicant has been a U.S. citizen for eight years, between 2014 and August 2018, he was employed at least part time by universities or agencies affiliated with the Pakistani government. He has been working for his current employer since August 2018, but there is no documented character evidence from supervisors and coworkers. In addition, there is no documented performance evidence. He belongs to no civic associations in the United States. He has never owned a home or a car in the United States. In sum, Applicant has provided inadequate evidence of deep and longstanding relationships in the United States.

The frequency of Applicant's trips to Pakistan to visit family members and friends demonstrates that his connection to his foreign family members is not casual and infrequent. AG ¶ 8(c) does not apply.

The size of Applicant's financial interests in Pakistan compared to his financial interests in the United States removes AG ¶ 8(f) from consideration. His financial and property interests in Pakistan amount to more than \$2,000,000. In contrast, his financial interests in the United States are about one tenth of that amount. Though Applicant testified that he was trying to divest himself from his Pakistani interests as soon as he could, he provided no documentation to substantiate his claims of resolving any of the Pakistani financial interests or real property. Furthermore, his testimony contradicts his roommate's statements indicating that he could easily divest, but was bound by the wishes of his relatives to hold onto the property of his mother and father.

Foreign Preference

AG ¶ 9 sets forth the security concerns under Guideline C:

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may provide information or make decisions that are harmful to the interests of the United States. Foreign involvement raises concerns about an individual's judgment, reliability, and trustworthiness when it is in conflict with U.S. national interests or when the individual acts to

conceal it. *By itself* ; the fact that a U.S. citizen is also a citizen of another country is not disqualifying without an objective showing of such conflict or attempt at concealment. The same is true for a U.S. citizen's exercise of any right or privilege of foreign citizenship and any action to acquire or obtain recognition of a foreign citizenship.

AG ¶ 10. Conditions that could raise a security concern and may be disqualifying include:

- (a) applying for and/or acquiring citizenship in any other country;
- (b) failure to report, or fully disclose when required, to an appropriate security official, the possession of a passport or identity card issued by any country other than the United States;
- (c) failure to use a U.S. passport when entering or exiting the U.S.;
- (d) participation in foreign activities, including but not limited to:
 - (1) assuming or attempting to assume any type of employment, position, or political office in a foreign government or military organization; and
 - (2) otherwise acting to serve the interests of a foreign person, group, organization, or government in any way that conflicts with U.S. national security interests; and
- (e) using foreign citizenship to protect financial or business interests in another country in violation of U.S. law.

AG ¶ 10(a) applies because Applicant was born in Pakistan and is a dual citizen of the country and the United States. I am unable to apply AG ¶ 10(b) due to the absence of evidence requiring him to report his possession of a Pakistani identity card and there is no indication that he endeavored to conceal the card.

AG ¶ 10(d)(1) applies to Applicant's employment in the entities identified in SOR ¶¶ 1.i through 1.o as he was being paid between \$2,000 and \$2,500 a month on a part-time basis by three of the four agencies or universities associated with the Pakistani government. Reference J, who was familiar with Applicant's work during the period 2014 to 2020, considered that Applicant's contributions to the research project relating to climate and flood control for the university identified at SOR ¶ 1.o, was in the U.S. interest. The record shows that Applicant's employment with these foreign universities or agencies affiliated with the Pakistani government ended in 2020.

Conditions under AG ¶ 11 that could mitigate security concerns include:

- (a) the foreign citizenship is not in conflict with U.S. national security interests;
- (b) dual citizenship is based solely on parental citizenship or birth in a foreign country, and there is no evidence of foreign preference;
- (c) the individual has expressed a willingness to renounce the foreign citizenship that is in conflict with U.S. national security interests;
- (d) the exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen;
- (e) the exercise of the entitlements or benefits of foreign citizenship do not present a national security concern; and
- (f) the foreign preference, if detected, involves a foreign country, entity, or association that poses a low national security risk.

Applicant's dual citizenship is not in conflict with U.S. national security interests and there is no evidence that Applicant has acted in a way that indicates a preference for a foreign country over the United States. AG ¶¶ 11(a) and 11(b) apply. Applicant has not expressed a willingness to renounce his Pakistani citizenship. However, there is no objective evidence that his foreign citizenship is in conflict with U.S. national security interests. AG 11(c) applies.

AG ¶¶ 11(d) and 11(e) apply because the SOR does not allege that Applicant exercised rights of foreign citizenship before he became a U.S citizen. His use of the Pakistani identity card does not present a national security concern. Judging by the totality of all the evidence, I am unable to apply AG ¶ 11(f). While the presence of terrorists in Pakistan and the human rights abuses exacerbate the potential for foreign influence being exerted on Applicant, there is insufficient evidence to conclude that he has a preference for Pakistan over the United States.

Whole-Person Concept

I have examined the evidence under the foreign influence guideline in the context of the nine general factors of the whole-person concept 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 access to classified information must be an overall common-sense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the specific disqualifying and mitigating conditions in the context of all the surrounding circumstances in this case, including the heightened risk of terrorism in Pakistan. Applicant has failed to mitigate the foreign influence concerns, because of his regular contacts with his foreign family members and considerable financial interests in Pakistan. Conversely, I conclude that his part-time employment in research projects for entities affiliated with the Pakistani government do not indicate a preference for Pakistan over the United States. Nor does the employment indicate an inclination to make decisions harmful to the United States.

One final item that warrants comment is the brief filed by Applicant's counsel in advance of the hearing. He has cited several hearing level cases to support his argument that Applicant merits a security clearance. The DOHA Appeal Board has repeatedly indicated that hearing level judges are not required to align their decisions with other hearing level judges. ISCR Case No. 19-00657 at 3 (July 21, 2021) See also ISCR Case No. 19-00327 at 3 (App. Bd. May 20, 2020). Under the Directive 5220.6, Encl 2. App. A ¶ 2(b), at page 21, every security clearance case must be resolved on its own merits. Considering the evidence from an overall commonsense point of view, Applicant has not mitigated the security concerns raised by the foreign influence guideline. He has mitigated the foreign preference 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.o:	Against Applicant
Paragraph 2 (Guideline C):	FOR APPLICANT
Subparagraphs 1.l-1.o:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is granted.

Paul J. Mason
Administrative Judge