



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-01977
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Adrienne M. Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

08/08/2024

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**Decision**

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RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Guideline B, foreign influence security concern. Eligibility for access to classified information is granted.

**Statement of the Case**

On February 8, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline B, foreign influence. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective on June 8, 2017.

Applicant answered the SOR on March 4, 2024, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s file of relevant material (FORM), and Applicant received it on April 22, 2024. He was afforded an opportunity to file objections and submit material in refutation,

extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 2 through 4. Applicant did not provide a response to the FORM or any objections. Items 2 through 4 are admitted into evidence. The case was assigned to me on July 17, 2024.

In the FORM, Department Counsel requested that I take administrative notice of certain facts about Israel. (Item 5). Without objection, I have taken administrative notice of the facts contained in the request. The facts are summarized in the written request and will not be repeated verbatim in this decision. Of particular note is the U.S. Department of State recently issued a do not travel advisory for Gaza because of terrorism and armed conflict due to the Israeli Defense Forces conducting large scale military operations against Hamas, a U.S. Government designated foreign terrorist organization responsible for recent attacks on Israel. There is also a travel advisory to reconsider travel to Israel and the West Bank due to terrorism and unrest. There are significant human rights issues in Israel. Some include credible reports of unlawful or arbitrary killings, arbitrary or unjust detention, arbitrary or unlawful interference with privacy, family and home, punishment of a family member for alleged offenses by a relative, and other violations.

### **Findings of Fact**

Applicant denied SOR ¶ 1.a and admitted ¶ 1.b. His admission is incorporated into the findings of fact. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 30 years old. He earned bachelor's degrees in 2016 and 2022. He is unmarried and has no children. He has worked for his present employer, a federal contractor, since November 2022. (Item 3)

Applicant was born to an American citizen in Israel. He holds dual citizenship with Israel and the United States. He moved with his parents to the United States in 2004. The SOR alleges that he maintains contact with an uncle who is a citizen and resident of Israel, and his uncle works for a technology company that was started by Applicant's father and the company works for the Israeli government. Applicant disputes this allegation. He admitted in his SOR answer that he maintains contact with various friends who are citizens and residents of Israel. (Items 1, 2)

Applicant completed a security clearance application (SCA) in November 2022. He reported that although he is a dual citizen of the United States and Israel, he would renounce his Israeli citizenship if required. He stated, "I would renounce it as I don't have much of an attachment to it." (Item 3)

Applicant completed government interrogatories in January 2024. He adopted his January 2023 personal subject interview with corrections and additions. He reported to the government investigator that he has an uncle who is a citizen and resident of Israel. His last contact with him was January 2023. His uncle is a manager for an information technology (IT) systems company in Israel. The company was started by his father in

about 1988 and then it was turned over to his uncle and family members to run. His uncle is unaware that Applicant works for a federal contractor. (Item 4)

In response to interrogatories, Applicant stated that his uncle's company "sold computers, printers, and provided IT services to the Israeli government." His father does not have any current role in the business. In his answer to the SOR, he clarified that his uncle's business does not work for the Israeli government. Rather, 22 years ago they sold computers and printers to the Israeli Department of Education. They also set-up the computers and printers for the Department of Education at the time. He stated he did not believe his uncle's business sold or setup computers with any other branch of the Israeli government and that one time was the last time they did business with the Israeli government. (Item 4)

Applicant disclosed to the government investigator that he has some friends who are Israeli citizens and residents. AB is the son of a friend of his father's whom he met in 2008 when AB visited Applicant's family in the United States. He has maintained contact with him about three times a year. He told the government investigator that AB presently works as a government contractor for the Israeli government. AB is unaware of Applicant's current employment. He did not anticipate future contact with AB. (Item 4)

Applicant disclosed he is friends with CD whom he met while on a work trip to Israel in 2017. CD is a citizen and resident of Israel. He maintains contact with him once a year through a telephone/text application. CD is not aware of Applicant's current employment. (Item 4)

Applicant disclosed he is friends with EF who is a citizen of Israel and resides in the United States. They met in December 2022 at a social gathering. EF is a student conducting research on a U.S. Air Force base. He did not anticipate future contact with EF. (Item 4)

Applicant disclosed he is friends with GH who is a citizen of Israel. They met in December 2022 at a social gathering in the United States. GH was a student conducting research on a U.S. Air Force base. After he completed his degree, he moved back to Israel. Applicant did not anticipate future contact with GH. (Item 4)

Applicant disclosed he is friends with IJ who he met while attending college in 2013. He maintained contact by text with IJ about once a week. IJ is a dual citizen of Israel and the United States and resides in Israel. IJ works as a tour guide in Israel. He did not anticipate future contact with IJ. (Item 4)

Applicant disclosed on his government interrogatories an additional foreign contact. KL is a childhood friend he met in elementary school. They send messages through Instagram about every three months. KL has a business in Italy and alternates living there and in Israel. (Item 4)

Applicant told the government investigator for each of the above contacts that he did not anticipate future contact. His foreign contacts are unaware that he works for a U.S. federal contractor. No one has approached him with a request to provide information or access that is not authorized. All but one foreign contact is not affiliated with any foreign government. He stated that he is not vulnerable to foreign influence or duress. He traveled to Israel in 2017 for a month of training related to his then employment. (Item 4)

In Applicant's SOR answer, he stated that shortly after his graduation from college and moving to another state for his current job, he was contacted by many people congratulating him, and they caught up on their lives. Since then, he has had infrequent contact with his Israeli friends. Most of his contact is through Instagram, and if they do talk it is through text message. They simply update each other on their lives. He never discusses work. (Item 2)

## **Policies**

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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 decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship

transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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

## **Analysis**

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

The security concern 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 several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

There are significant concerns regarding Israel and its human rights and espionage activity. Applicant's foreign contacts create a potential conflict of interest and a heightened

risk of foreign exploitation, inducement, manipulation, pressure, and coercion, through his uncle and friends who are citizens and residents of Israel. The above disqualifying conditions have been raised by the evidence.

Conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following is potentially applicable:

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

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

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

I considered the totality of Applicant's ties to Israel. The nature of a nation's government, its relationship with the United States, and its human rights record are relevant in assessing the likelihood that an applicant's family members and friends are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member is associated with or dependent upon the government, and the country is known to conduct intelligence operations against the United States.

The United States occasionally has political differences with Israel, but it is not an authoritarian government, and the evidence does not support that Applicant's uncle or most of his friends are associated with or dependent on the Israeli government such that the government would coerce them for any sort of strategic or economic gain. Israel does have human rights issues, but most are not associated with their citizens. It is known for conducting intelligence operations against the United States.

Applicant has minimal contact with friends who are citizens and residents of Israel and intends to minimize it in the future. His contacts are casual and infrequent and unlikely to create a risk of foreign influence or exploitation. He has one friend, AB, who works for an Israeli government contractor. Despite this fact, I find it is unlikely Applicant's relationship with any friends in Israel is such that he would be placed in a position to choose between their interests and the interests of the United States. Although a dual citizen by birth, I do not find the evidence supports a conflict of interest and if there was

one, I believe Applicant would resolve it in favor of the United States. The above mitigating conditions apply to Applicant's contact with friends who are citizens and residents of Israel.

Applicant has regular contact with an uncle in Israel. His contact is more than casual and infrequent. The evidence does not support that Applicant's uncle works for the Israeli government or has ongoing business interests with it. Twenty-two years ago, his uncle's company had a contract with the Israeli Department of Education. According to Applicant, since then his uncle's company has not had other government contracts. Despite having a familial relationship with his uncle, I find that the nature of the relationship with Israel and his uncle make it unlikely Applicant would be placed in a position of having to choose between the interests of his uncle and those of the United States. I also considered if there was a conflict of interest, because of Applicant's allegiance to the United States, he would resolve it in its favor. I find AG ¶¶ 8(a) and 8(b) apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress; and
- (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline B, in my whole-person analysis.

The record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant mitigated the security concerns arising under Guideline B, foreign influence.

## **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-1.b:                   For Applicant

## **Conclusion**

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

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Carol G. Ricciardello  
Administrative Judge