



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



Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: *Pro se*

12/19/2025

Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant did not mitigate the foreign influence security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On March 18, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence). The DCSA acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

In Applicant's April 1, 2025 response to the SOR (Answer), he denied, with explanations, all three allegations. He did not attach any documentary evidence. He requested a decision by an administrative judge of the Defense Office of Hearings and Appeals based upon the written record in lieu of a hearing. (Answer)

On May 16, 2025, Department Counsel submitted a file of relevant material (FORM) and provided a complete copy to Applicant. Department Counsel's FORM included Government Exhibits (GE) 1 through 4. The FORM also includes materials for administrative notice of the security concerns regarding Russia (AN 1). In the FORM, Department Counsel provided Applicant notice that failure to respond to the FORM may be considered a waiver of any objections to the admissibility of the evidentiary exhibits and administrative notice materials.

On May 28, 2025, Applicant received the FORM and its attachments. A cover letter included with the FORM advised Applicant that he had 30 days from the date of receipt to file any objections or to provide any additional information in support of his clearance eligibility. He did not respond to the FORM or raise any objections to the admissibility of any of the evidentiary exhibits or administrative notice materials.

The case was assigned to me on September 2, 2025. GE 1 through 4 are admitted into evidence, without objection. AN 1 is received, without objection, for administrative notice of the security concerns regarding Russia. My decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

Findings of Fact

Applicant is 29 years old. At birth, he acquired dual citizenship of the United States and Russia, based upon his mother's Russian citizenship and both parents' U.S. citizenship. Applicant graduated from high school in the U.S. in 2013, and he earned a bachelor's degree in the U.S. in 2019. Since June 2019, he has been employed full time as a test engineer with a DOD contractor. He was granted a secret clearance in November 2020. He married in December 2017 and separated in September 2022. He resides with his six-year-old child. (GE 3)

The SOR alleges foreign influence security concerns arising from his familial contacts in Russia. He denied all the allegations in his Answer.

SOR ¶ 1.a. Applicant's mother was born in Azerbaijan. She met Applicant's father, married, and relocated to the United States. She became a naturalized U.S. citizen. After Applicant's father died in 2018, she sold her home and returned to Russia in 2019 to care for her aging parents. She maintains dual citizenship of Russia and the United States. She has resided in Russia since 2019 with Applicant's maternal grandmother. Applicant's maternal grandfather died in 2022. (GE 3-4)

Applicant maintains daily contact with his mother by electronic or text message. As to his relationship with his mother, he wrote, "I am very close with my mother. I have contact with her daily by text message and weekly telephone calls via WhatsApp." She most recently visited Applicant and his daughter in the United States in 2022. Applicant's mother subsists on her savings and the proceeds of her home. She owns a vacant apartment in Belarus and the apartment where she and her mother reside. (GE 3-4)

SOR ¶ 1.b. Applicant's maternal grandmother is a citizen of Belarus, and she resides with Applicant's mother in Russia. Applicant has quarterly contact with his grandmother by telephone. (GE 3)

SOR ¶ 1.c. Applicant has several extended family members on his mother's side with whom he maintains contact. One maternal aunt and one maternal uncle are citizens and residents of Russia. They reside in Russia with their spouses and adult children (Applicant's cousins), who are all Russian citizens. A second maternal aunt is a citizen of Belarus, and she resides in Russia. She has an adult child who is a citizen of Belarus and who resides in Russia. (GE 3)

Applicant participates in a group text chat with his mother and extended family members on his mother's side of the family (SOR ¶ 1.c.). Family members exchange messages daily, but Applicant estimated that he only initiates texts in the group chat about once a week or every two weeks. He typically sends pictures of his child. His messages directly to his Russian family members vary from monthly to quarterly to annually. He has not seen any of these extended family members since his trip to Russia in 2017. Some of his family members have completed their required military service, including one uncle and one cousin. Applicant was unsure what ongoing contacts, if any, his extended family members had with the Russian military or government. (GE 3-4)

On February 8, 2024, Applicant submitted a sworn statement delineating his familial contacts in Russia. The sentiments of Applicant and his family members about U.S., Russian, and Ukrainian foreign policy positions were not considered in the assessment of the Applicant's clearance eligibility. Applicant's own loyalty is not questioned. In his sworn statement, Applicant professed his loyalty to the United States, even in the face of hypothetical threats against his family members. (Answer; GE 4)

Applicant traveled to Russia to visit family members from June to August 2013, from June to July 2014, in August 2016, and August 2017. (GE 3) In his sworn statement, he explained why he maintained a valid Russian passport and his relationships and contacts with his family members, in pertinent part, as follows:

I maintain my citizenship with Russia and Russian passport because of ease of travel to visit my family in Russia. If I didn't have this passport I would have to go through the process of getting a Visa, which is more difficult than just using my Russian passport to travel there and currently likely impossible for a U.S. citizen only. Having the ability to easily visit my family is the most important thing to me. I do not feel a need to renounce my Russian citizenship. I am an American and my loyalty is to the United States, but this doesn't negate the fact half of my family lives in Russia. (GE 4)

Applicant has no siblings. He has four half-siblings who are citizens and residents of the United States. There is no evidence in the record as to the nature of his relationship with these relatives or his frequency of contact with them. He listed references in his

security questionnaire, including a best friend, who is a citizen and resident of the United States. He did not provide any further information about his frequency and nature of those contacts here in the United States. (GE 3-4)

Administrative Notice

I have taken administrative notice of the following facts concerning the Russian Federation (Russia), excerpted from the materials proffered by Department Counsel:

Russia has a highly centralized, authoritarian political system. The Russian Government uses arbitrary designations, criminal convictions, and administrative barriers to disqualify potential opposition candidates. (AN 1)

Russia's 2014 violation of Ukraine's sovereignty and territorial integrity preceded its 2022 full-scale invasion of Ukraine. Russia's armed forces committed numerous war crimes and other atrocities and abuses. Authorities used new laws to punish dissent and independent expression in Russia, and they jailed antiwar protesters and political opposition figures, prosecuted numerous individuals for online expression, forced closure of nongovernment organizations, and continued transnational repression against critics abroad. Independent of the Ukraine conflict, significant human rights abuses are committed by the Russian Government against its own people. (AN 1)

In its February 2023 Annual Threat Assessment, the Office of the Director of National Intelligence (ODNI), reported that Russia will remain a formidable and less predictable challenge to the United States for the next decade. The ODNI also assessed that Russia will continue to use an array of tools to advance what it sees as its own interests and try to undermine the interests of the United States. Russian government-affiliated cyber espionage likely will remain a persistent threat to Federal, state, and local governments, as well as entities in the defense, energy, nuclear, aviation, transportation, and other industries. (AN 1)

In June 2024, the U.S. Department of State issued a Level 4 Travel Advisory for Russia, advising U.S. persons not to travel to Russia due to the consequences of the Ukraine conflict. U.S. citizens may face harassment or detention by Russian security officials, arbitrary enforcement of local laws, and the possibility of terrorism. Russian officials have interrogated and threatened U.S. citizens without cause. This includes former and current U.S. government and military personnel and private U.S. citizens engaged in business. Russian security services have arrested U.S. citizens on false charges, denied them fair treatment, and convicted them without credible evidence. (AN 1)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

disqualifying conditions and mitigating conditions, which are to be 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a 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."

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Section 7 of EO 10865 provides that adverse 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 under this guideline is set out in AG ¶ 6 as follows:

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.

Two disqualifying conditions (AG ¶ 7) under this guideline are relevant to 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.

"The United States has a compelling interest in protecting and safeguarding [sensitive] information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). 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 are vulnerable to coercion.

The materials for administrative notice concerning Russia detail the significant security concerns raised by the Russian Government, its hostility towards the United States, its intelligence-collecting activities targeting the United States, and significant human-rights issues. "An applicant with family members living in a country hostile to the U.S. has a very heavy burden to show that they are not a means through which the applicant can be subjected to coercion or exploitation." ISCR Case No. 11-12659 at 3 (App. Bd. May 30, 2013). The Government has established a "heightened risk" required under AG ¶ 7(a) concerning Applicant's relatives in Russia. Given the active, capable, and hostile entities within Russia, Applicant must overcome the "very heavy burden" to show that his foreign contacts are not a means through which he may be influenced or coerced. AG ¶¶ 7(a) and 7(b) apply to Applicant and his family members in Russia.

The following mitigating conditions (AG ¶ 8) under this guideline are potentially relevant:

(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, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., 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 and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

The administrative notice materials detail the security concerns regarding Russia. Independent of Applicant's own sentiments towards Russian policies, the circumstances in Russia – its targeting of U.S. sensitive information, its human rights abuses, and its arbitrary detention of Russian and U.S. citizens – require Applicant to overcome a "very heavy burden" in mitigation.

Applicant's mother, a dual citizen of the United States and Russia, returned to Russia to care for her parents, and because Applicant and his daughter were her only family members in the United States. By his own admission, Applicant is "very close" to his mother, and he maintains frequent contact with her. See, e.g., ISCR Case No. 00-0484 at 5 (App. Bd. Feb. 1, 2002) (There is a rebuttal presumption that contacts with one's immediate family members are not casual). There is no impropriety or misconduct in maintaining a close relationship with one's parent; however, this relationship creates a potential conflict of interest.

Applicant's mother lives with Applicant's grandmother, and Applicant directly contacts his grandmother telephonically on a monthly basis. He maintains contact with his extended family members in Russia through a group chat, to which he contributes photos of his child once a week or every two weeks. Applicant had limited or no information about his family members' contacts with the Russian military or government. Although Applicant's contacts with these extended family members are less frequent and the nature of the relationships are not as close as that which he has with his mother, I must consider the web of familial relationships. See ISCR Case No. 02-04786 at 4 (App. Bd. June 27, 2003) ("[F]amily relationships can be complex in nature, involving more than just the one-on-one relationship between two family members."). Applicant's mother returned to Russia to care for Applicant's grandmother and to be closer to her family members.

Applicant's daughter is a U.S. citizen and resides with Applicant. In his sworn statement, Applicant passionately discussed his loyalty to the United States, even in the face of hypothetical pressure applied to his foreign family members. Notwithstanding Applicant's relationship with his daughter (a U.S. citizen), Applicant has not established

deep and longstanding relationships in the United States such that he can be expected to resolve any conflict of interest in favor of the U.S. interest. None of the foreign influence mitigating conditions apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information by considering the totality of the applicant's conduct and all relevant 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 and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant's education and professional career have occurred exclusively in the United States; however, he maintains close and frequent contacts with his family members in Russia, especially his mother. A determination as to one's clearance eligibility is not an assessment as to one's loyalty to the United States. Rather, it is a predictive judgment based on an evaluation of the potential conflicts of interest. Here, Applicant's familial contacts are natural and appropriate; however, they make him vulnerable to influence and exploitation by a country that has the means and the desire to harm U.S. interests. He has not mitigated the security concerns arising from his relationships with his family members in Russia. This decision should not be construed as a determination that Applicant cannot obtain a security clearance in the future. Eligibility for access to classified information is denied.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline B: AGAINST APPLICANT

Subparagraphs 1.a.-1.c: Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric H. Borgstrom
Administrative Judge