



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



In the matter of: )  
)  
) ISCR Case No. 23-02606  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel O’Reilly, Esq., Department Counsel  
For Applicant: Samir Nakleh, Esq.

03/09/2026

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**Decision**

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HOGAN, Erin C., Administrative Judge:

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

**Statement of the Case**

On January 14, 2025, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence). Applicant responded to the SOR on February 12, 2025 (Answer) and requested a hearing before an administrative judge. The case was assigned to another administrative judge on July 18, 2025, and was originally scheduled for hearing on October 21, 2025. The original hearing was cancelled and held in abeyance because of a federal government shutdown due to a lapse in federal funding from October 1, 2025, to November 12, 2025. After the shutdown ended, the case was transferred to me on December 4, 2025, and the hearing was rescheduled on January 6, 2026.

The hearing was convened as rescheduled over the Microsoft Teams online network. Government Exhibits (GE) 1 through 3 were admitted in evidence without objection. On the Government’s motion, and, without objection, I took administrative notice of certain facts about the country of Libya, as contained in official U.S. Government

documents (Administrative Notice (AN) I). I marked the Government's Exhibit List as Hearing Exhibit (HE) 1.

Applicant testified and provided five documents that I entered in evidence as Applicant Exhibits (AE) A through E, without objection. At Applicant's request, I left the record open until January 20, 2026, in order for him to provide post-hearing documentation. Applicant timely provided one document that was marked as AE F, and admitted in evidence, without objection.

Several names and other facts have been modified to protect Applicant's privacy interests. More detailed facts can be found in the record.

### **Findings of Fact**

Applicant is a 29-year-old employee of a DOD contractor since July 2023. He previously worked for another DOD contractor from July 2019 to January 2022. He received his first security clearance in 2020 while working for this contractor. He was born, raised, and educated in the United States. His highest level of education is a master's degree. He is single and has no children. (Tr. 13-17; GE 1; AE A)

In the SOR, the Government alleged the following: Applicant's two brothers are dual citizens of the United States and Libya (SOR ¶ 1.a); his three sisters are dual citizens of the United States and Libya (SOR ¶ 1.b); his father is a dual citizen of the United States and Libya (SOR ¶ 1.c); his mother is a dual citizen of the United States and Libya (SOR ¶ 1.d); and he and one of his brothers traveled to Libya in July 2024 to visit their mother and father who were residing in Libya at that time. (SOR ¶ 1.e) In his Answer, Applicant admitted the SOR allegations with additional comments. His admissions are incorporated in my finds of fact. (Answer)

Applicant's parents were born and raised in Libya. They immigrated to the United States in the 1970s and became U.S. citizens in the late eighties or early nineties. They remain dual citizens of the United States and Libya. Applicant and his siblings were born in the United States but have dual citizenship with Libya as a result of their parents' Libyan citizenship. Applicant has never exercised his Libyan citizenship. He has a U.S. passport which he uses for travel. He has never had a Libyan passport. He is registered to vote in the United States. He has never voted in foreign elections. He has no foreign investments. All of his investments and bank accounts are in the United States. He files and pays U.S. taxes every year. He feels proud and blessed to be a U.S. citizen. (Tr. 19, 21, 23-24, 29-33; AE A – AE D)

The following are additional details about Applicant's relatives:

Applicant's Parents: Applicant's parents have been married for over 40 years. His father, age 71, was a college professor at a college located in the U.S. He recently retired after 20 years of teaching. His mother, age 67, also recently retired. She was a school teacher who taught language and theology in a private school located in the United States. Their principal residence is in the United States and is worth approximately

\$750,000. Applicant currently lives with them. They hope to sell the house and move to a warmer area in the United States. Applicant's father owns an apartment in Libya which he inherited from his father. It is worth between \$20,000 to \$30,000. They also own a car which they shipped to Libya. Both of his parents have a lot of family members who still live in Libya. They each have about 10 siblings. They stay at the apartment when they travel to Libya to visit family members. Their last trip to Libya was in 2024. They stayed for approximately eight months. The main purpose of the visit was to care for one of his mother's sisters who had terminal cancer. They are not connected to anyone in the Libyan government. They are not involved in foreign politics or foreign affairs. (Tr. 20-23, 35-38, 59-65; GE 2 at 5-6, 12)

Applicant has two brothers. Brother Number One, age 41, lives near Applicant and his parents. He owns an autobody shop in the United States. He also owned or worked for a shipping company which shipped containers and cars to Libya, Greece, and other mediterranean countries. Applicant is not really sure of the specifics of his brother's involvement with the shipping company. He does not have a good relationship with his brother. He sees him every two weeks when he and his family visit at his parents' house. His brother is married and has three children, ages 22, five, and three. His oldest child is from a previous relationship. She is an adult and lives on her own. Applicant believes the last time Brother Number One traveled to Libya was in 2015 and 2016 for vacation and his wedding. (Tr. 39-44, 48; GE 2 at 5-6, 12-13)

Brother Number Two, age 31, recently obtained his master's degree and works for a company in Silicon Valley. Applicant last saw him in October 2025. He recently married and they do not have children yet. Applicant testified that he is closer to Brother Number Two. His brother's last trips to Libya were in 2014 and for two weeks between July and August 2024. (Tr. 51; GE 2 at 5-6, 12-13)

Applicant has three sisters. Sister Number One, age 43, is a teacher in a state located in the southeastern area of the United States. She is married and has three children. She last visited with Applicant and his parents in the summer 2025. He believes the last time that she traveled to Libya was in 2013 to attend Sister Number Three's wedding. (Tr. 52; GE 2 at 5-6, 12-13)

Sister Number Two, age 39, lives and works about an hour away from where Applicant and his parents live. She met and married her husband, a Libyan citizen, in the United States. They have five children, and she is expecting her sixth child. She has weekly contact with her parents either on the phone or in person. Her husband has family in Libya. Applicant does not know whether she and her husband have visited Libya recently. He believes the last time she traveled to Libya was in 2008. He does not communicate with her husband because he does not like him. After an altercation with Brother Number One, she was estranged from the family from 2021 to about 2025. They have reconciled. (Tr. 53-56; GE 2 at 5-6, 12-13)

Sister Number Three, age 38, is married with two children. They live several hours away from where Applicant and his parents live. He last saw her in August 2025. He is not aware whether she and her family recently traveled to Libya. He believes the last time

she traveled to Libya was approximately on two to three occasions between November 2014 and July 2015. The purpose of the trips was vacation and for her wedding. (Tr. 58; GE 2 at 5-6, 12-13)

In July 2024, Applicant and Brother Number Two traveled to Libya. The trip was from July 23, 2024, to August 9, 2024. The purpose of the trip was to visit his parents. His parents were staying in Libya for an extended period of time after his mother's sister was diagnosed with terminal cancer. His aunt had passed away, and they wanted to visit their parents to provide support. They stayed at their parents' apartment for most of the trip, but the family also stayed a couple days at resort located on the beach. Both locations were considered safe. Applicant is aware that there are areas of the country that are too dangerous to visit. During his trip, Applicant met a few aunts and uncles. He did not meet all his aunts and uncles because there are a lot of them on both sides of the family. Before Applicant left on his trip, he reported his travel to his current employer and was given approval to travel. (Tr. 24-27, 66-68; AE F)

Applicant has traveled to Libya on three occasions. The first time he traveled to Libya was when he was around 12 or 13. He traveled with his family. The second time, he was about 17 or 18 and had just graduated from high school. The third time was in July 2024, which is described in the above paragraph. He does not communicate with his aunts and uncles who are citizens of a reside in Libya. They do not speak English, and his Arabic is limited. (Tr. 27-28)

### **Additional Information Not Alleged in the SOR**

Government Exhibit 3 is a Defense Counterintelligence and Security Agency – Vetting Risk Operations Center – Continuous Evaluation Referral Summary (CERS), dated February 20, 2021. Applicant was enrolled in the DNI Continuous Evaluation System (CES) on January 29, 2021. An alert was generated on him on January 31, 2021. The findings indicate that one of Applicant's immediate family members is a match to a National Unique Identification Number. The report indicates the specific information is available at a higher classification. The report gave Applicant a risk determination as a medium risk to national security. On page 3 of the report, it states that there is a possible nexus between Applicant and other USG data of an international nature. I considered this report but do not give it much weight. There is insufficient information provided to indicate which family member is a potential security concern and the nature of the concern. GE 3 does not provide the Applicant adequate notice about the potential security concern, which also prevents him from responding to unalleged conduct.

During the hearing, Department Counsel asked Applicant about whether his oldest brother, Brother Number One, ever expressed political or religious views that he disagrees with. Applicant said yes, but the disagreements were "nothing crazy." He was then asked whether his brother had ever been arrested. He indicated that his brother had been arrested after an altercation with Sister Number Two around 2020 before the COVID pandemic began. He is not aware of the details other than they got into a heated argument. He was not present during the argument. All that he knows that the police were called. No one told him about what occurred during the argument. His sister was one

month pregnant at the time and had a miscarriage which may or may not be a result of the argument. He does not know the details of what Brother Number One was charged with. He said that he is closer to Brother Number Two who is two years older than him. His other siblings are more than ten years older, and he is not that close to them. (Tr. 44-49)

Department Counsel asked Applicant, "Why did your brother attack your sister?" Applicant's counsel objected based on relevance. Department Counsel was given the opportunity to explain the basis for the line of questioning. Department Counsel explained that Brother Number One was a key part of the concern in Applicant's case, specifically Applicant's ties to his brother, the brother's ties to Libya, and the concern it presents through association. Department Counsel referred to GE 3, which allegedly identified one of Applicant's immediate family members as someone who is listed in the Terrorist Identities Datamart Environment (TIDE) database. Department Counsel did not specifically indicate Brother Number One was the subject of the report. I sustained the objection but allowed Department Counsel to ask about any additional information he may be privy to about the brother. Department Counsel moved on to other questions. (Tr. 49-50)

I considered the above information but do not find it to be relevant to security concerns raised in the SOR.

### **Whole-Person Concept**

Mr. S.D. is an engineering manager where Applicant works. He hired Applicant in July 2023 after an extensive interview process. Mr. S.D. states that Applicant has surpassed the potential they observed during the interview process. He has successfully assimilated into the company culture and has made himself a valuable member of the team. (AE E)

Applicant's employer was aware of his dual citizenship when they offered him a position. They were also aware that he was granted a security clearance when he worked for his previous DOD contractor and that the security clearance would be transferrable. He was disappointed that the security clearance did not transfer in an expedient manner. An inability to get a security clearance would hinder Applicant's career. If granted a security clearance, Applicant would be an asset for working on projects whose purpose is to protect the war fighter. He urges a fair resolution in Applicant's case. (AE E)

### **Administrative Notice - Libya**

In AN 1, the Government included information from the U.S. Department of State and other Government Agencies about the United States' relations with Libya and the conditions in that country. I take administrative notice of the information included in those documents including, but not limited to:

Since the fall of the Qadhafi regime in 2011, Libya has faced division and violent conflict. A nationwide ceasefire agreement in October 2020 paused the fighting, creating space for the UN-Facilitated Libyan Political Dialog Forum (LPDF) to select a new unified

interim government and produce a political roadmap to hold national elections. The roadmap has stalled and the military tensions around Tripoli have increased. The U.S. and international partners are actively engaged in diplomacy to help Libya take concrete steps toward a unified government, inclusive and democratic governance, and political stability. External actors continue to exploit the unstable situation in Libya, posing a threat to NATO's southern flank and further destabilizing the Sahel region. Southern Libya is of particular focus as malign actors take advantage of fragile local governance systems to seek safe havens for terrorist and illicit activities. (U.S. Dep't of State, *The U.S. Strategy to Prevent Conflict and Promote Stability 10-Year Plan for Libya 2022-2032*, Mar. 29, 2024, at 3)

On August 1, 2024, the U.S. Department of State issued a Level 4 Travel Advisory: Do Not Travel. The advisory states, "Do not travel to Libya due to crime, terrorism, unexploded land mines, civil unrest, kidnapping, and armed conflict." Crime levels in Libya remain high to include the threat of kidnapping for ransom. U.S. citizens have been targets of these crimes. Terrorist groups are present in Libya. While no terrorist attacks involving foreigners have occurred since 2015, terrorist attacks could occur with little to no warning, targeting public spaces like tourist locations, hotels, transportation hubs, markets/shopping malls, and government facilities. Outbreaks of violence between competing armed groups can occur with little warning and have the potential to impact U.S. citizens. Hotels and airports frequented by U.S. citizens have been the targets of these attacks. The capital Tripoli, and other cities, such as Surman, Al-Jufra, Misrata, Ajdabiya, Benghazi and Zuwara have witnessed fighting among armed groups. (U.S. Dep't of State, *Libya Travel Advisory*, August 1, 2024 (*Libya Travel Advisory*) at 1.

Armed groups sometimes detain travelers for arbitrary reasons, do not grant detainees access to a lawyer or a legal process, and do not allow detainees to inform others of their status. U.S. citizens should carry proof of citizenship and valid immigration status at all times, but having these documents does not guarantee fair treatment. (*Id.*)

The U.S. government prohibits U.S. commercial aviation operations within Libyan airspace. The Commandant of the U.S. Coast Guard has determined that effective anti-terrorism measures are not in place in Libyan ports and has imposed conditions of entry on vessels that arrive in U.S. ports having visited ports in Libya. Mariners and passengers traveling through ports of Libya should exercise caution. The U.S. government has limited ability to provide emergency or routine assistance in Libya. The U.S. Embassy in Tripoli suspended its operations in July 2014. U.S. citizens in Libya are urged to depart as soon as possible via commercial means if possible. (*Id.*)

In March 2023, the UN independent Fact-Finding Mission on Libya concluded its three-year mandate and found reasonable grounds to believe state and nonstate actors committed crimes against humanity in Libya. Reports of human rights abuses committed by groups aligned with the government, the Libyan National Army, other nonstate actors, and foreign actors, including mercenaries from various countries, were widespread throughout the year. These included abuses involving killings, arbitrary detention, unlawful recruitment or use of children, and torture. (U.S. Department of State, *Libya 2023 Human Rights Report*, April 22, 2024, at 1-3)

In 2024, the Libyan Government of National Unity (GNU), established through a UN-facilitated process in March 2021, did not effectively govern large swaths of Libyan territory because it did not exercise control in several parts of the country. The judicial system was not fully functioning. Courts in major cities have not been fully operational since 2014. Financial or military contributions from other states in the region and beyond continue to destabilize the country. Armed groups, to include foreign mercenaries, continued to fill a security vacuum throughout the country. They committed various human rights abuses, including unlawful killings, abuse of migrants and refugees, and asylum-seekers in cycles of sex and labor trafficking. Endemic corruption and armed groups' influence over government ministries contributed to GNU's inability to effectively address human trafficking. (U.S. Department of State, *Libya 2024 Trafficking in Persons Report : Libya*, February 13, 2025, at 1)

## **Policies**

This case is adjudicated 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), which became effective on June 8, 2017.

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(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."

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 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified 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 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.

The nature of a nation's government, including its level of control, its relationship with the United States, and its human-rights record are relevant in assessing the likelihood that an applicant's family members and foreign contacts are vulnerable to coercion or inducement. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, a family member or friend is associated with or dependent upon the government, the country is known to conduct intelligence collection operations against the United States, or the foreign country is associated with a risk of terrorism.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified 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 administratively noticed country conditions in Libya, such as terrorism, and its poor human-rights record, raise the security concerns to the level of a heightened risk.

Applicant's parents and siblings are all dual citizens of the United States and Libya. All of his immediate family reside in the United States. Applicant's connection to his Libyan family members presents a heightened risk of foreign exploitation and a potential conflict of interest. As a matter of common sense and human experience, there is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members and longstanding friends. Application of the AG is not a comment on an applicant's patriotism but merely an acknowledgment that people may act in unpredictable ways when faced with choices that could be important to a loved one, such as a family member. (ISCR Case No. 08-10025 at 4 (App. Bd. Nov. 3, 2009). AG ¶¶ 7(a), and 7(b) apply.

Conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following are 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 and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Applicant was born and raised in the United States. While a dual citizen of Libya, his parents arranged for his dual Libyan citizenship when he was around 11. He has not exercised his Libyan citizenship. He was educated in the United States. He intends to work in the United States and his bank accounts and retirement account are located here. His immediate family members are all U.S. citizens residing in the U.S. Their U.S. citizenship and residency diminish the likelihood that he will be placed in the position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States. AG ¶ 8(a) applies. Applicant's longstanding relationships and loyalties in the United States support the premise that he can be expected to resolve any conflict of interest in favor of the United States interests. AG ¶ 8(b) applies.

While Applicant's distant relatives who are citizens of and residents of Libya are not alleged in the SOR, AG ¶ 8(c) applies because he is not close to them. He does not see them on a regular basis and there is a language barrier. They cannot speak English, and his Arabic is not very good. When he traveled to Libya in July and August 2024, he reported his upcoming trip to his superiors, prepared a report and was approved for the trip. He provided full disclosure. The security concerns raised under Foreign Influence are mitigated.

### **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 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 have incorporated my comments under Guideline B in my whole-person analysis. I have considered Applicant's past and current employment history with two DOD contractors. He was granted a security clearance in 2020 and has no security incidents or violations. I considered the favorable comments provided by Mr. S.D., one of his superiors. I considered he sought approval from his employer before his travel to Libya in 2024. I considered all of his immediate family members are U.S. citizens who currently reside and work in the United States. The foreign influence security concerns are mitigated.

### **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.e: For Applicant

### **Conclusion**

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Erin C. Hogan  
Administrative Judge