

KEYWORD: Foreign Preference; Foreign Influence; Personal Conduct

DIGEST: Applicant is a 33-year-old linguist/interpreter working as an independent contractor for a federal agency. He exercised dual citizenship by using a Pakistani passport, but at the hearing renounced his Pakistani citizenship and cut the passport into two pieces. His parents, six siblings, and their extended families are citizens and residents of Pakistan. He is the sole source of support for his parents, and sends them at least \$1,000 monthly. He falsified two answers to questions on two security clearance applications. He successfully mitigated security concerns about foreign preference and personal conduct. He did not mitigate foreign influence security concerns. Clearance is denied.

CASENO: 04-09353.h1

DATE: 07/17/2007

DATE: July 17, 2007

In re:)	
)	
)	
-----)	ISCR Case No. 04-09353
SSN: -----)	
)	
Applicant for Security Clearance)	

**DECISION OF ADMINISTRATIVE JUDGE
CHRISTOPHER GRAHAM**

APPEARANCES

FOR GOVERNMENT

Robert E. Coacher, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 33-year-old linguist/interpreter working as an independent contractor for a federal agency. He exercised dual citizenship by using a Pakistani passport, but at the hearing renounced his Pakistani citizenship and cut the passport into two pieces. His parents, six siblings, and their extended families are citizens and residents of Pakistan. He is the sole source of support for his parents, and sends them at least \$1,000 monthly. He falsified two answers to questions on two security clearance applications. He successfully mitigated security concerns about foreign preference and personal conduct. He did not mitigate foreign influence security concerns. Clearance is denied.

STATEMENT OF THE CASE

On April 4, 2003, Applicant submitted a Security Clearance Application (SF 86). The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, DOHA issued a Statement of Reasons (SOR) on February 10, 2006, detailing the basis for its decision – security concerns raised under Guideline C (Foreign Preference), Guideline B (Foreign Influence), and Guideline E (Personal Conduct) of the Directive. The President issued revised adjudicative guidelines (AG) on December 30, 2005. DoD implemented them on September 1, 2006. Pending official amendment/reissue of DoD Directive 5220.6, the AG are to be used in all cases when the SOR is dated on or after September 1, 2006. Because the SOR was dated before September 1, 2006, DoD policy requires that this case proceed under the former guidelines.

Applicant answered the SOR in writing on March 2, 2006, and elected to have a hearing before an administrative judge. The case was assigned to me on February 21, 2007, and a Notice of Hearing was dated on March 1, 2007. I convened a hearing on March 19, 2007, to consider whether it is clearly consistent with the national interest to grant or continue Applicant's security clearance. The government offered seven exhibits, marked as Exhibits 1-7. Applicant offered 11 exhibits, marked as Exhibits A-K. All exhibits were admitted without objection. DOHA received the transcript (Tr.) on March 30, 2007.

FINDINGS OF FACT

Applicant admitted the allegations contained in SOR subparagraphs 1.b., 1.c., 1.d., 2.a. through 2.d., 3.a., and 3.c. He denied all other allegations in the SOR. The admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 33-year-old linguist/interpreter working as an independent contractor for a federal agency.¹ He was widowed in 2004, when his wife was killed in an automobile accident.² He has one child, born in 2006, who is a citizen because her mother is a U.S. citizen.³ He has a master's degree in mathematics.⁴ He immigrated to the United States in 1998.⁵ He served in the United States Air Force from May 1999 until May 2003. He received an honorable discharge in

¹Tr. at 15, 22.

²*Id.* at 16.

³*Id.* at 16, 51.

⁴*Id.* at 16-17.

⁵*Id.* at 40.

2003, and left active service as a senior airman E-4. He is now in the inactive Air Force Reserve.⁶ He has held a security clearance since January 2003, when he became a naturalized citizen.⁷

Applicant held a Pakistani passport that was issued on October 4, 2002, valid until October 23, 2007. He became a U.S. citizen in January 2003. He exercised dual citizenship with Pakistan and the United States, after January 2003. He used his Pakistani passport for travel to Pakistan in 2002, 2003, and 2004. Prior to January 2003, Applicant was not a citizen and had no U.S. passport to use. The Air Force approved his leave to Pakistan in 2002, and knew he only carried a Pakistani passport. This passport expired, and he had to renew it in order to leave the country and return to his Air Force duty.⁸ During 2003, he traveled to Pakistan on emergency leave to attend the funerals of his grandparents.⁹ Because he was in a remote location and due to the emergency of the situation, he was forced to use his Pakistani passport as an entry visa in conjunction with his U.S. passport. In 2004, he again had an emergency trip to Pakistan, when his wife was killed in an automobile accident.¹⁰ He used his U.S. passport for these emergency trips, and also used his Pakistani passport as an entry visa. The government contractor sanctioned his use of dual passports.¹¹ At this hearing, he renounced his Pakistani citizenship and cut his passport in half.¹²

Both of Applicant's parents, six siblings, and extended family members are citizens and residents of Pakistan. His parents, siblings, and their families all live together in one residential compound.¹³ None are associated with the Pakistani government. Two uncles, who are engineers, work for local governments. None have military experience.¹⁴ Applicant provides the only income his parents receive, sending them about \$1,000 per month.¹⁵ Three brothers work in retail businesses, and three sisters go to college.¹⁶ He traveled to Pakistan from December 2000 to January 2001, from September 2002 to October 2002, in November 2003, and from March to April 2004.¹⁷

When Applicant executed his security clearance application (SF 86), on April 4, 2003, he answered "No" to the following question "**15. Your Foreign Activities - Passport** In the last seven

⁶*Id.* at 17.

⁷*Id.* at 19-20.

⁸Answer to SOR, dated February 4, 2006, at 1.

⁹Tr. at 31.

¹⁰*Id.* at 32.

¹¹*Id.* at 1-2.

¹²Tr. at 38, 65-66.

¹³*Id.* at 39, 58.

¹⁴*Id.* at 39-41.

¹⁵*Id.* at 57.

¹⁶*Id.* at 58.

¹⁷Answer to SOR, *supra*, note 7, at 2-3.

years, have you had an active passport that was issued by a foreign government?” He failed to disclose that he had an active Pakistani passport. He also answered “No” to this question: “**16. Foreign Countries You Have Visited** Have you traveled outside the United States on other than official U.S. Government orders in the last 7 years (travel as a dependent or contractor must be listed.) Do not repeat travel covered in modules 4, 5, and 6.” He did not disclose his travel in 2000 and 2002. He also answered “No” to the same numbered questions on a SF 86 executed by him on October 31, 2003, failing to disclose the same information set forth, above.

Applicant answered “No” to question 15, because he had shown his Pakistani passport to his security officer, who advised him that his passport was a “tourist passport” and not a “diplomatic” or “official” passport, and therefore, his passport was not covered by the definition “issued by a foreign government.”¹⁸ He followed the advice of his security officer and did not list his passport. Because his 2000 travel was for less than 30 days, his security officer advised him that he did not have to list the travel.¹⁹ But he disclosed his travel in detail to both his security officer and the Defense Security Service (DSS) investigator, and neither mentioned any need to change his answers. His 2002 travel was for more than 30 days, and he listed it in Module 4 “Where have You Lived,” and was not required to list it under this question. These reasons, apply to his answers on both the April and October 2003, security clearance applications. Applicant did not provide any corroborating evidence to his testimony about his false answers.

Applicant served as an interpreter with a special operations team in support of Operation Enduring Freedom. Team members said this:

Applicant possess’s great personal character, courage, and is reliable in every situation. The job is dangerous and he is one of the few who have met all of the requirements, and then some. Everyone on the team knew they could depend on him. His command of the language is unparalleled and his extensive knowledge of the numerous accents in the regions made communicating with the populous hassle free.²⁰

Applicant is a highly motivated, productive, and efficient individual. His language skills are the best of any interpreter we have worked with.²¹

Applicant also worked with the Combat Status Review Tribunals (CSRTs). One of the judges commented:

Applicant is solid under pressure. Of all the positions or responsibilities in a courtroom, none is more intense than that of an interpreter. The interpreter must stay focused at all times because every spoken word must be translated. He had no reservations about serving as the interpreter. His performance was outstanding.

¹⁸Tr. at 60-61.

¹⁹*Id.* at 62-63.

²⁰Applicant’s Exhibit K (Letter of Recommendation, dated February 2, 2004) at 1.

²¹Applicant’s Exhibit J (Letter of Recommendation, dated March 2, 2004) at 1.

Since the first case, Applicant continued to impress tribunal members. All of his cases run smoothly and efficiently because he accurately and quickly communicates the questions and answers for the witness and the members.²²

Terrorist Activity in Pakistan

Pakistan is known to be a base for numerous terrorist organizations and the country continues to suffer from anti-Shia, anti-Christian, and anti-Western terrorism.²³ The Department of State continues to warn U.S. citizens against non-essential travel to Pakistan in light of the threat of terrorist activity. Family members of official Americans assigned to the embassy in Islamabad and to three consulates in Pakistan were ordered to leave the country in March 2002, and have not been allowed to return. The presence of Al Qaeda, Taliban elements, and indigenous sectarian groups poses a potential danger to American citizens, especially along the porous border with Afghanistan. Continuing tensions in the Middle East also increase the possibility of violence against Westerners in Pakistan. Terrorists and their sympathizers have demonstrated their willingness and capability to attack targets where Americans are known to congregate or visit, such as hotels, clubs and restaurants, places of worship, schools, or outdoor recreation events. American fast food restaurants and other companies in Karachi were bombed in late 2005, resulting in several deaths and multiple injuries among Pakistani employees and customers. On March 2, 2006, an American diplomat, his locally employed driver, and three others were killed when a suicide bomber detonated a car packed with explosives in front of the U.S. Consulate in Karachi. Fifty-two others were wounded. Occasional sectarian violence has resulted in fatal bomb attacks in Karachi, Peshawar, Quetta, Lahore, and other Pakistani cities in 2006.²⁴ Some people living in the village where his family lives could be supportive of the Taliban or Al Qaeda.²⁵

POLICIES

In an evaluation of an applicant's security suitability, an administrative judge must consider Enclosure 2 of the Directive, which sets forth adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into Disqualifying Conditions (DC) and Mitigating Conditions (MC), which are used to determine an applicant's eligibility for access to classified information.

These adjudicative guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, an administrative judge should apply these guidelines in conjunction with the factors listed in the adjudicative process provision in Section E2.2, Enclosure 2, of the Directive. An administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision.

²²Applicant's Exhibit F (Letter of Recommendation, dated January 29, 2005) at 1.

²³Government Exhibit 7 (Congressional Research Service, Pakistan - U.S. Relations, October 8, 2004) at 6.

²⁴Government Exhibit 6 (U.S. Department of State, Travel Warning, dated December 5, 2006) at 1.

²⁵Tr. at 59.

Because the entire process is a conscientious scrutiny of a number of variables known as the “whole person concept,” an administrative judge should consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

Specifically, an administrative judge should consider the nine adjudicative process factors listed at Directive ¶ E2.2.1: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that the issuance of the clearance is “clearly consistent with the interests of 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.

In the decision-making process, facts must be established by “substantial evidence.”²⁶ The government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive. Once the government has produced substantial evidence of a disqualifying condition, the burden shifts to the applicant to produce evidence and prove a mitigating condition. Directive ¶ E3.1.15 provides, “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, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable clearance decision.” The burden of disproving a mitigating condition never shifts to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).²⁷

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or 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.

²⁶“Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record.” ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). “This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” *See v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

²⁷“The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, [evaluates] Applicant’s past and current circumstances in light of pertinent provisions of the Directive, and [decides] whether Applicant [has] met his burden of persuasion under Directive ¶ E3.1.15.” ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

The scope of an administrative judge's decision is limited. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance 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." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

Foreign Preference

The government has established its case under Guideline C by showing that Applicant has exercised dual citizenship with Pakistan by possessing and using a Pakistani passport. Therefore, Foreign Preference Disqualifying Conditions (FP DC) E2.A3.1.2.1. (*The exercise of dual citizenship*) and E2.A3.1.2.2. (*Possession and/or use of a foreign passport*) are applicable.

The DoD "Money Memorandum"²⁸ of August 16, 2000, clarifies DoD policy regarding the possession and/or use of foreign passports. It requires that "any clearance be denied or revoked unless the applicant surrenders the foreign passport or obtains official approval for its use from the appropriate agency of the United States Government." Under the Money Memorandum, possession and/or use of a foreign passport is not mitigated by reasons of personal convenience, safety, requirements of foreign law, or the identity of the foreign country. However, Applicant expressed a willingness to renounce dual citizenship and took the demonstrative step of cutting his passport into two pieces, effectively making applicable Foreign Preference Mitigating Condition E2.A3.1.3.4. (*Individual has expressed a willingness to renounce dual citizenship*).

Applicant's use of his Pakistani passport before January 2003, is obvious because he did not become a U.S. citizen until then, and could not obtain a U.S. passport until he became a citizen. His two trips after he became a citizen were emergency in nature, he was on active duty in foreign countries, and he used his Pakistani passport as means of a visa, precluding a trip back to the United States to obtain a Pakistani visa. The trips were authorized by his employers and Foreign Preference Mitigating Condition E2.A3.1.3.3. (*Activity is sanctioned by the United States*) applies. I conclude Guideline C for Applicant.

Foreign Influence

The government has established its case under Guideline B. Applicant's parents, siblings, and extended family are citizens and residents of Pakistan. Foreign Influence Disqualifying Condition (FI DC) E2.A2.1.2.1. (*An immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country*)

²⁸Memorandum, Assistant Secretary of Defense for Command, Control, Communications and Intelligence, "Guidance to DoD Central Adjudication Facilities (CAF) Clarifying the Application of the Foreign Preference Adjudicative Guideline," August 16, 2000. It is known as the 'Money Memorandum' because it was issued by Arthur L. Money, Assistant Secretary of Defense.

is applicable. A security risk may exist when an applicant's immediate family, or other persons to whom he may be bound by affection, influence, or obligation, are not citizens of the U. S., or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information.

While family ties with persons in a foreign country are not, as a matter of law, disqualifying under Guideline B, such ties raise a *prima facie* security concern. This concern is sufficient to require an applicant to present evidence of rebuttal, extenuation or mitigation sufficient to meet the applicant's burden of persuasion that it is clearly consistent with the national interest to grant or continue a security clearance.²⁹

Foreign Influence Mitigating Condition (FIMC) E2.A2.1.3.1. provides (*A determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are not agents of a foreign power or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States*). Applicants must establish: (1) that the individuals in question are not "agents of a foreign power," and (2) that they are not in a position to be exploited by a foreign power in a way that could force the applicant to chose between the person(s) involved and the United States.³⁰

Applicant's brothers and sister do not meet the definition of "agent of a foreign power" under 50 U.S.C. § 438(6) and 50 U.S.C. § 1801(b). Similarly, they would not be considered as an "agent of a foreign power" under the more expansive definition adopted by the Appeal Board. The available evidence indicates his brothers and sister have no ties to or economic dependence upon the Pakistani government.

The second prong of the test is whether the relatives in question are "in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States."³¹ The federal statute, 50 U.S.C. § 1801(a), defines "foreign power" to include: a foreign government; a faction of a foreign nation; an entity openly acknowledged by a foreign government to be controlled by that foreign government; a group engaged in international terrorism; a foreign-based political organization; or an entity directed and controlled by a foreign government.

To determine whether Applicant is "in a position to be exploited by a foreign power," I must examine Applicant's connection to his family in the foreign country. Although his family residing in Pakistan have no connection to or dependence upon a foreign power, they are still under the physical control of the Pakistani government. Applicant's record of successful employment, the fact that Pakistan and the U.S. enjoy a good relationship, and Pakistan's dependence on the U.S. for military and economic aid make it unlikely that he would be vulnerable to improper influence by the government. But, Pakistan is rife with terrorist activity. His family is subject to terrorist actions at

²⁹ISCR Case No. 99-0424, 2001 (App. Bd. Feb. 8, 2001).

³⁰ISCR Case No. 02-14995 at 5 (App. Bd. Jul. 26, 2004).

³¹Directive, ¶ E2. A2. 1.3.1.

any time. And the fact he is a U.S. citizen, if known, would endanger them even more. The concern is that members of his family could be kidnaped by terrorists and threatened with bodily harm or death if Applicant does not compromise classified information. The Appeal Board has limited the applicability of FI MC E2.A2.1.3.1. where there is a history of terrorist activity in the foreign country in question.³²

However, as discussed above, in order to apply the second prong of FI MC E2.A2.1.3.1., the Appeal Board requires that applicants affirmatively prove that there is no possibility that anyone would attempt to exploit a foreign relative in the future. Also, the Appeal Board prohibits any consideration of evidence that is not dispositive of the issue. Finally, the Appeal Board finds it irrelevant to this issue whether an applicant is likely to be improperly influenced by a foreign relative or associate. Applying that standard, FI MC E2.A2.1.3.1. does not apply.

Under the Directive, FI MC E2.A2.1.3.3. applies where “contact and correspondence with foreign citizens are casual and infrequent.” Applicant’s contact with his siblings has been irregular. But he is the sole source of support for his parents, sending them an average of at least \$1,000 per month. He calls them once or twice per month. Applicant is not required to dis-associate himself from his family. But being the source of financial support for his parents is not casual and infrequent contact. Therefore, FI MC E2.A2.1.3.3. is inapplicable, and the allegations raised under Guideline B are found against him.

Personal Conduct

The concern under Guideline E (Personal Conduct) is that conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the applicant may not properly safeguard sensitive information. Applicant gave incorrect answers to questions 15 and 16 on two SF 86 forms in 2003. The government asserts that Personal Conduct Disqualifying Condition (PC DC) E2.A5.1.2.2. (*The deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.*) applies. However, Applicant denied that he intentionally falsified the answers by not including most of her delinquent debts. Applicant answered “No” to question 15, because he had shown his passport to his security officer, who advised him that his passport was a “tourist passport” and not a “diplomatic” or “official” passport, and therefore, his passport was not covered by the definition “issued by a foreign government.” He followed the advice of his security officer. Because his 2000 travel was for less than 30 days, his security officer advised him that he did not have to list the travel. He disclosed his travel in detail to both his security officer and the Defense Security Services (DSS) investigator, and neither mentioned any need to change his answers. The only evidence is Applicant’s testimony. His reasons do not seem credible, because a passport is a passport. He had no independent corroboration but the government provided no documentation of his DSS interview that mat have provided some evidence. Giving Applicant the benefit of the doubt, the evidence does not establish deliberate falsification and I conclude Guideline E for Applicant.

³²ISCR Case No. 03-22643 (App. Bd. Jun. 24, 2005); ISCR Case No. 02-22461 at 5 (App. Bd. Oct. 22, 2005).

Whole Person Analysis

Guideline E2.2.1. The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for as security clearance. Eligibility for access to classified information is predicated upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole person concept. Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a determination. In evaluating the relevance of an individual's conduct, I considered the following:

- E2.2.1.1. The nature, extent, and seriousness of the conduct;
- E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation;
- E2.2.1.3. The frequency and recency of the conduct;
- E2.2.1.4. The individual's age and maturity at the time of the conduct;
- E2.2.1.5. The voluntariness of participation;
- E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes;
- E2.2.1.7. The motivation for the conduct;
- E2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and
- E2.2.1.9. The likelihood of continuation or recurrence.

The “whole person” concept—not the potentially disqualifying or mitigating conditions—is the heart of the analysis of whether an applicant is eligible for a security clearance.³³ Indeed, the Appeal Board has repeatedly held that an administrative judge may find in favor of an applicant where no specific mitigating conditions apply.³⁴ Of the items above, only E2.2.1.8. appears to be on point, and I have discussed this under the terrorist activity section, *supra*.

The Appeal Board suggests that the whole person analysis address “evidence of an applicant’s personal loyalties; the nature and extent of an applicant’s family’s ties to the U.S. relative to his ties to a foreign country; his or her ties social ties within the U.S.; and many others raised by the facts of a given case.”³⁵ In the present case, there is a fair amount of information about positive attributes to Applicant’s life as a U.S. citizen that could weigh in favor of granting him a security clearance, in response to the disqualification under Guideline B. I considered his age (33), his education, the nature of his employment, his reasons for travel to Pakistan, his Air Force service, his attempts to surrender his passport, his willingness to renounce his citizenship, and his financial stability, as to whether he is a good candidate for a security clearance. His only trip to Pakistan since he applied for a security clearance was for the death of his wife. However, the fact that he is the sole source of support for his parents, and that his entire family live in Pakistan and are subject to the potential terrorist activity, must outweigh his positive attributes.

To conclude, Applicant has failed to meet his ultimate burden of persuasion to obtain a favorable clearance decision. But this decision should not be construed as an indictment of

³³Directive, ¶ E2.2.3.

³⁴ISCR Case No. 03-11448 at 3-4 (App. Bd. Aug. 10, 2004); ISCR Case No. 02-09389 at 4 (App. Bd. Dec. 29, 2004).

³⁵ISCR Case No. 04-00540 at 7 (App. Bd. Jan. 5, 2007).

Applicant's loyalty and patriotism to the U.S., as those matters are not at issue. Instead, the clearly-consistent standard requires I resolve any doubt against Applicant, and his close family ties to Pakistan create doubt about his security suitability. In reaching my decision, I have considered the record evidence as a whole, the whole-person concept, the clearly-consistent standard, and the appropriate factors and guidelines in the Directive. While I would like to clear him, in view of the Appeal Board's standards, I conclude that he has not mitigated the Guideline B concerns, and it is not clearly consistent with the national interest to grant or continue Applicant's security clearance.

FORMAL FINDINGS

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

Paragraph 1. Guideline C:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant
Paragraph 2. Guideline B:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant
Subparagraph 2.c:	Against Applicant
Subparagraph 2.d:	Against Applicant
Paragraph 3. Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Subparagraph 3.b:	For Applicant
Subparagraph 3.c:	For Applicant
Subparagraph 3.d:	For Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Christopher Graham
Administrative Judge