



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



In the matter of:)	
)	
-----)	ISCR Case No. 06-14752
SSN: -----)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: Dillon L. Ross IV, Esq.

June 9, 2008

Decision

FOREMAN, LeRoy F., Administrative Judge:

Applicant submitted his Security Clearance Application (SF 86) on January 7, 2003. On January 11, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the basis for its preliminary decision to deny his application, citing security concerns under Guidelines E (Personal Conduct) and B (Foreign Influence). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on January 23, 2007; answered it on January 31, 2007; and requested a hearing before an administrative judge. DOHA received the request on February 5, 2007. Department Counsel was prepared to proceed on December 31, 2007, and the case was assigned to me on January 2, 2008. Scheduling of the hearing was delayed at the request of Applicant's counsel based on the counsel's overseas Navy Reserve duty and the availability of a key witness for

Applicant. DOHA issued a notice of hearing on February 29, 2008, scheduling the hearing for April 2, 2008. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 9 were admitted in evidence without objection. Applicant testified on his own behalf, presented the testimony of 11 witnesses, and submitted Applicant's Exhibits (AX) A through I, which were admitted without objection. DOHA received the transcript of the hearing (Tr.) on April 17, 2008. The record closed on April 28, 2008. Eligibility for access to classified information is granted.

Administrative Notice

I directed Department Counsel and Applicant's counsel to provide information concerning the Republic of Ireland, Northern Ireland, the Provisional Irish Republican Army (PIRA), Sinn Fein, and the Irish Northern Aid Committee (NORAI, also known as INAC), all of which were referred to in evidence submitted by both sides. I set a deadline of April 16, 2008. Both sides requested additional time, and I extended the deadline until April 28, 2008. The requests for extension and my rulings are attached to the record as Hearing Exhibit (HX) I.

Department Counsel responded to my order with a request for administrative notice, which is attached to the record as HX II. Applicant's counsel submitted seven State Department documents, marked as Exhibits A-1 through A-7, which I have attached to the record as the basis for administrative notice. Applicant's counsel also submitted Exhibits A-8 through A-13, which I did not consider appropriate for administrative notice, but they have been admitted without objection as AX J through O. The facts administratively noticed are set out below in my findings of fact.

Findings of Fact

In his answer to the SOR, Applicant denied the allegations in the SOR. He admitted some of the factual allegations in the SOR at the hearing. His admissions at the hearing are incorporated in my findings of fact. I make the following findings:

Applicant is a 39-year-old information technology systems administrator for a federal contractor. He graduated from college in 1995. He has worked for his current employer since April 2000.

It is unclear from the record whether Applicant is applying for an initial clearance or continued eligibility for access to classified information. In a letter postmarked June 20, 2002, he told the recipient he was moving to a new job that would require a clearance (GX 4 at 1). At the hearing, he testified he applied for a "secret local clearance" in late 2002 (Tr. 28). His counsel stated he held a clearance for "several years" and the reinvestigation was triggered by an application for a higher level of clearance (Tr. 5). In January 2003, Applicant answered "no" to the question on his security clearance application asking if the government had ever investigated his background and/or granted him a clearance (GX 1 at 9). I conclude he probably was

granted an interim clearance at some time after January 2003, but he has never received a final clearance.

Applicant's performance assessments have rated him "proficient" in all "shared competencies." His demonstrated strengths are in "relationship building," "teamwork," and "customer focus," as reflected in his performance assessments for 2004 (AX C) and 2005 (AX D). His supervisor for the past four or five years described him as "solid" and consistent (Tr. 128). Another supervisor described his performance as "good" and testified he has no reason to question his integrity or ability to hold a clearance (Tr. 139-40).

Applicant was married in June 1995 and divorced about two years ago. Two sons, ages six and nine, were born during the marriage (Tr. 27). His ex-wife, who has custody of the children, testified on his behalf at the hearing and described him as a good father (Tr. 117).

Applicant is politically active in his community and holds membership in several environmental and humanitarian organizations (Tr. 69-70). A party chairman in the state assembly who has known him for about five years described him as personable, dependable, a conscientious father, and a man of high character, integrity, and impeccable honesty (AX I).

Around 1998, Applicant became interested in Irish history. He joined the Ancient Order of Hibernians (AOH) in 1999 because of his Irish ancestry and interest in Irish history. At the hearing, a local AOH official described the organization as a charitable Irish Catholic fraternal group (Tr. 147). He described AOH as a non-political organization whose mission is to promote Irish history and culture and perform charitable works (Tr. 153). Another official described AOH as a fraternal Catholic organization based on friendship, unity, and Christian charity (Tr. 171). Its only political goal is to see Ireland united peacefully (Tr. 171). To be eligible for membership, a person must be a practicing Catholic of Irish descent.

Every AOH chapter is required to have a "Freedom for All Ireland" chairman, responsible for educating the membership on history and current events regarding efforts to achieve a united Ireland. The position was vacant in Applicant's chapter until he volunteered to fill it (Tr. 33-34). An AOH officer who has known Applicant since February 2001 described Applicant as one of the best officers they have ever had (Tr. 167). He testified he regards Applicant as a person of outstanding character and an outstanding citizen (Tr. 168-69).

I have taken administrative notice of the following facts about Ireland. Ireland is a parliamentary republic. Nationalism is a potent force in Irish politics. The conflict in Northern Ireland stems from a history of British rule, historical animosity between Catholics and Protestants, and various attempts to create a united Ireland. Nationalist and Republican groups seek an united Ireland, but Unionists and Loyalists want Northern Ireland to remain in the United Kingdom. After decades of violence by both

factions, the British and Irish governments negotiated a ceasefire in 1994, followed by the U.S.-brokered Good Friday Agreement in 1998. Ireland has remained largely free of terrorist incidents since 1998. U.S.-Irish relations have long been based on common ancestral ties and shared values. Relations have broadened to economic and trade policies as a result of Ireland's membership in the European Union and economic success.

Applicant testified his father was involved in local politics for more than 30 years, and that learning Irish history "politicized" him (Tr. 34). In August 2000, he wrote a newspaper article about British involvement in Ireland (AX G), identifying himself as an AOH member and "an Irish Republican activist." The article was entitled, "Americans can help bring peace to Ireland." In the article, he commented favorably on the apparent influence of the U.S. on Great Britain to further the peace process in Ireland, but he expressed displeasure about the lack of U.S. support for a united and independent Ireland. He wrote:

It is time for England to use a firm hand by refusing to pander to unionist demands. American opinion matters to England. If the proper amount of pressure is applied to her majesty's government, the crisis in the north of Ireland would be over tomorrow. British troops could withdraw and United Nations peacekeeping forces or perhaps a joint force of American, Canadian and Australian troops could help to keep the two sides from killing one another as an uneasy peace matured into acceptance of a new status quo.

Unfortunately, our government will not pressure England unless we pressure our government first. It is important to remember how our country came to be. It is time to use our freedom to help end almost a millennium of mismanagement of one of our mother countries. Help Ireland. Help England help Ireland. It's time for us to do the right thing.

His article was met with displeasure by the president of the local AOH chapter, because he thought it inappropriate for AOH to appear "political." Applicant testified that when he wrote the article he considered himself a supporter of a free, united, Irish Republic, but he was not a PIRA supporter (Tr. 100). When he answered the SOR, he stated he is no longer sure a united Ireland would be desirable because it could plunge Northern Ireland back into war.

In carrying out his duties in AOH as the "Freedom for All Ireland" chairman, Applicant often searched the internet and email groups. He found an email group for the Irish Northern Aid Committee (NORAID), but it was closed to non-members. He was curious about the "news he wasn't getting," checked the NORAID web site, found it "very benign," and joined NORAID sometime in 2000 to have access to the email list (Tr. 35-37). He did not attend any meetings but marched in one St. Patrick's Day parade as a NORAID member. Expecting NORAID to be more politically active than AOH, he became disenchanted with NORAID after about a year and did not renew his

membership. At the hearing, he testified he removed his name from the NORAID email list “years and years ago.” (Tr. 83.) However, he told a security investigator in November 2006 that he was still on the NORAID email list (GX 2 at 3).

I have taken administrative notice of the following facts about the Irish Northern Aid Committee (NORAID, also known as INAC). In 1982, the U.S. Court of Appeals for the Second Circuit held that INAC was required to register as an “agent of a foreign principal” under the Foreign Agents Registration Act of 1938, because of its extensive connections with the PIRA. In August 2007, the U.S. Department of Justice listed INAC as a “pro-PIRA American group.”

I have taken administrative notice of the following facts about the Provisional Irish Republican Army (PIRA). The PIRA was formed in 1969 as the clandestine armed wing of Sinn Fein. In Northern Ireland, it targeted senior British officials, British troops, police, and Loyalist paramilitary groups. In mainland Britain, it conducted bombing campaigns against train and subway stations and shopping areas. The PIRA has not been linked with terrorist attacks in the U.S., but it has been involved with the acquisition and transportation of weapons and bomb-making materials from the U.S. to Ireland. The PIRA decreased its terrorist activities after the Good Friday Accord in 1998, but it refused to “decommission” its bomb and weaponry until 2005, and it continued its connections with global terrorist organizations, including the Revolutionary Armed Forces of Columbia.

Applicant learned from a NORAID email that a PIRA member was sentenced to 56 months in prison for attempting to ship firearms from the U.S. to Ireland on behalf of the PIRA between April and July 1999. During his trial, the prisoner admitted he was an intelligence officer for the PIRA (GX 3; GX 4). The email encouraged NORAID members to write letters to several PIRA members imprisoned throughout the U.S. Applicant decided to contact the prisoner, who was in a low security prison, because he was the prisoner nearest his home. At the time, the prisoner was about 28 years old (GX 8 at 2) and Applicant was about 31.

Applicant exchanged letters with the prisoner, at first biweekly and then declining to monthly. In the letters, they talked about their families, Irish and U.S. history, politics, and the prisoner’s involvement in the PIRA. In a letter postmarked November 20, 2002, Applicant told the prisoner he had a new assignment working with the Navy that required a secret clearance. He told the prisoner: “Guess what I am worried about? That’s right . . .’So, you’ve been visiting an IRA man in [prison]?” (GX 4 at 1). Applicant and the prisoner concluded all their letters with the PIRA slogan (“Our day will come.”) written in Gaelic (Tr. 94-95; GX 8).

In one letter, the prisoner described the process for obtaining permission from prison authorities to visit him (Tr. 45). Applicant obtained approval to visit the prisoner and visited him several times, driving about three hours each way, with each visit lasting about three hours. He had his picture taken with the prisoner on one visit (Tr. 97). He occasionally brought the prisoner food (Tr. 97). He testified that his only motivation for

visiting the prisoner was his religious upbringing, which considers visiting the imprisoned as a work of mercy (Tr. 46). According to Applicant, the prisoner did not attempt to recruit him or ask him to pass on any messages (Tr. 69, 77). Applicant had no contact with the prisoner after January 2003. After completing his sentence, the prisoner was released and deported to Ireland, where he now resides.

In 2002, Applicant received an email advertising a lecture by a Sinn Fein officer at a local Irish pub. He attended the lecture and paid a \$20 fee. In 2003, he received another email advertising a lecture by the president of Sinn Fein, at the same Irish pub. He attended this lecture and paid a \$50 fee (GX 2 at 3). He testified he believed the fees went to the Sinn Fein treasury (Tr. 90).

I have taken administrative notice of the following facts about Sinn Fein. It began as a political movement dedicated to removing British forces from Northern Ireland and unifying Ireland. It is a recognized political party in Ireland, but it has been barred from participating in Irish government at times because of its links to the PIRA. It currently is an active participant in Irish government.

Applicant's friend for more than 20 years, a college history professor, described him as a good man, a good father, and a good friend (Tr. 108) He testified he regards Applicant as a competent, reliable member of the community (Tr. 109). About two years ago, at his friend's invitation, Applicant presented a lecture on Irish history (Tr. 106, 110).

A friend of Applicant's parents, who has known Applicant since his birth, described Applicant as very honest, candid, upright, hard-working, trustworthy, and a person who loves his country (Tr. 160-62). Another family friend testified that Applicant saw politics as an opportunity to make a difference in the community. He testified Applicant has great respect for democracy, our political system, and our government, and would never be involved in a subversive or violent organization (Tr. 179). Applicant's ex-father-in-law, who has held a clearance for most of his adult life, testified that Applicant was a "good candidate" for a clearance and a good upstanding citizen (Tr. 190). Another friend of the family testified Applicant was "very wholesome," extremely inquisitive, and a very deep thinker (Tr. 195). An uncle who has known Applicant all his life described him as a good man with "dedicated allegiance" to the U.S. (Tr. 201).

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly

consistent with the national interest to do so.” Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the revised adjudicative guidelines (AG). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s over-arching adjudicative goal is a fair, impartial and common sense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the 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.

Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is not necessarily a determination as to the loyalty of the applicant. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance

Initially, the government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “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). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Guideline E, Personal Conduct

The SOR alleges Applicant maintained a relationship from 2000 to “at least 2002” with a citizen of Ireland who was a member of the PIRA and incarcerated in a U.S. prison for involvement in an illegal weapons procurement operation on behalf of the PIRA (SOR ¶ 1.a). It also alleges Applicant told the citizen of Ireland he was being investigated for a security clearance required by his job (SOR ¶ 1.b). Finally, it alleges Applicant identified himself as an “Irish Republican activist” on at least one occasion in August 2001 (SOR ¶ 1.c).

The security concern relating to Guideline E is set out in AG ¶ 15 as follows: Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness and ability to protect classified information.”

A disqualifying condition under this guideline may be raised by “credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics.” AG ¶ 16(d). A disqualifying condition also may be raised by “(e) personal conduct, or concealment of information about one’s conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as . . . engaging in activities which, if known, may affect the person’s personal, professional, or community standing.” AG ¶ 16(e). Finally, a disqualifying condition may be raised by “association with persons involved in criminal activity.” AG ¶ 16(g).

Applicant’s identification of himself as an “Irish Republican activist” does not itself raise a security concern, because lobbying for a united Ireland is a legitimate political activity. In his newspaper article, Applicant did not espouse violence. Instead, he espoused pressuring England to withdraw its troops and replace them with an international peacekeeping force. However, when his “Irish Republican activist” views led him to befriend a convicted PIRA gun-runner and to tell his PIRA friend he was moving into a sensitive position with the Navy, the disqualifying conditions in AG ¶¶ 16(d) and (e) were raised. His friendship with a convicted felon also raised AG ¶ 16(g). He expressed his concern in his letter to the prisoner that their friendship might prevent him from obtaining a clearance. His friendship with the prisoner made him and his family known to the PIRA as a potential ally, thereby making him vulnerable to pressure, manipulation, or exploitation by the PIRA.

Since the government produced substantial evidence to raise the disqualifying conditions in AG ¶¶ 16(d), (e), and (g), the burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving

it is never shifted to the government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

Security concerns under this guideline may be mitigated by evidence that “the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.” AG ¶ 17(c). The first prong (“offense is so minor”) is not limited to criminal offenses but pertains to any personal conduct raising security concerns. Writing a letter to a prisoner as an act of Christian charity would fall under this prong, but an extended relationship, including several three-hour visits and a three-hour drive each way, goes beyond “minor.” Disclosing to a convicted terrorist that he was moving to a sensitive position with the Navy was not “minor.”

The second prong (“so much time has passed”) is established, because five and a half years have elapsed since Applicant’s last contact with the prisoner. The third prong (“so infrequent”) is not established, because Applicant exchanged multiple letters and made multiple visits to the prisoner.

The fourth prong (“under such unique circumstances that it is unlikely to recur”) is established. The relationship with the prisoner began about eight years ago, when Applicant was passionate about the cause of Irish Republicans. He was presented with a unique opportunity to meet a real PIRA soldier who was close to him in age, and he apparently found the experience fascinating. The relationship ended in January 2003. Applicant now realizes how foolish he was. The testimony of his supervisors and friends establishes that he has matured into a responsible adult. He is regarded as a “solid” employee, a good father, and a good citizen.

The political landscape in Ireland has changed. Sinn Fein is actively participating in Irish government. The PIRA decreased its violent activities after the Good Friday Agreement in 1998 and “decommissioned” its arsenal in 2005. Applicant is not likely to have a similar relationship with a member of the PIRA or other terrorist group again. I conclude AG ¶ 17(c) is established.

Security concerns under this guideline also may be mitigated if “the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.” AG ¶ 17(d). Applicant has acknowledged his inappropriate behavior. He did not take any positive steps to alleviate the causes of his behavior; however, the PIRA prisoner was deported and they have had no contact since January 2003. The PIRA disarmed in 2005. It is unlikely that Applicant will find himself in a similar position again. This mitigating condition is partially applicable.

Finally, security concerns may be mitigated if “association with persons involved in criminal activity has ceased.” AG ¶ 17(g). This mitigating condition is established.

Guideline B, Foreign Influence

The SOR alleges that the personal conduct discussed above also raises security concerns under this guideline. The concern under this guideline is set out in AG ¶ 6 as follows:

Foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or 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).

Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002). Nevertheless, the nature of a nation’s government, its relationship with the U.S., and its human rights record are relevant in assessing the likelihood that an applicant’s family members 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, or the country is known to conduct intelligence operations against the U.S.

A disqualifying condition under Guideline B may be raised by “contact 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.” AG ¶ 7(a). A disqualifying condition also may be raised by “connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information.” AG ¶ 7(b). Applicant’s relationship with and connections to the prisoner, which included disclosure of his transfer to a sensitive job with the Navy, created a heightened risk of

exploitation and manipulation, and it placed Applicant in a potential conflict-of-interest situation.

A disqualifying condition also may be raised by “unauthorized association with a suspected or known agent, associate, or employee of a foreign intelligence service.” AG ¶ 7(g). Applicant apparently did not know the prisoner was an intelligence officer for PIRA. He did know, however, that the prisoner was a member of PIRA, a foreign terrorist organization. Although the facts of this case do not squarely fit into AG ¶ 7(g), a security concern arising from his association with a member of a foreign terrorist organization is raised.

Security concerns under this guideline may be mitigated by showing “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 U.S.” AG ¶ 8(a). Applicant’s relationship with the prisoner ended more than five years ago. The countries involved, Ireland and the United Kingdom, are friendly countries who share the values of the U.S. The PIRA is a terrorist organization but it has not conducted terrorist activities against the U.S., it has generally complied with the Good Friday Agreement of 1998, and it “decommissioned” its arsenal in 2005. Under the current political environment, it is unlikely Applicant will be required to choose between the interests of Ireland, Northern Ireland, or the PIRA and the interests of the U.S. I conclude AG ¶ 8(a) is established.

Security concerns also may be mitigated by showing “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.” AG ¶ 8(b). Applicant never felt any loyalty or obligation to PIRA. At one time, he probably felt some loyalty to the prisoner, but that relationship ended more than five years ago. He still is passionate about the peace process in Ireland, but he has approached it as an academic, historical, and philosophical issue. Notwithstanding his intense interest in Irish history and culture, he has never visited Ireland, and he has no relationships with citizens of Ireland or Northern Ireland now that his relationship with the PIRA prisoner has ended.

On the other hand, Applicant has strong family, political, and social connections in the U.S. He believes deeply in democracy and the U.S. form of government. He is politically active and involved in his community. I am satisfied he would resolve any conflict of interest in favor of the U.S. I conclude AG ¶ 8(b) is established.

Finally, security concerns under this guideline may be mitigated if “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.” AG ¶ 8(c).

Applicant has had no contact with the prisoner since January 2003. I conclude AG ¶ 8(c) is established.

Whole Person Concept

Under the whole person concept, an 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. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

(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 common sense judgment based upon careful consideration of the guidelines and the whole person concept. Some of the factors in AG ¶ 2(a) were addressed above, but some warrant additional comment.

Applicant has a reputation for becoming passionately involved in everything he finds interesting and worthwhile. While educating himself on his Irish heritage, he became outraged at what he perceived were the injustices inflicted on the Irish people. In spite of his strong beliefs, he is committed to nonviolence. His membership in AOH is a reflection of his interest in Irish history and culture. It was not asserted as a security concern by Department Counsel, and no security concerns based on AOH membership are raised by the evidence.

Applicant's membership in NORAID was not alleged in the SOR. The evidence reflects that Applicant joined this organization to gain access to emailed information, after reviewing the organization's benign website. He was unaware of NORAID's connections to the PIRA. He became disillusioned after a year and did not renew his membership.

Applicant's contacts with Sinn Fein also were not alleged in the SOR. Sinn Fein was a political pariah for years because of its association with the PIRA. It is now accepted as a legitimate political party and is actively involved in Irish government. Applicant's only contacts with Sinn Fein were two lectures by Sinn Fein leaders. He contributed a total of \$70 to Sinn Fein by paying fees for the lectures.

The gravamen of the security concern is Applicant's relationship with the prisoner. Applicant is an idealist and is attracted to political causes. Both he and the

prisoner were relatively young when they met. The evidence suggests Applicant was attracted by the prospect of actually meeting a veteran of the struggle in Ireland, and the initial attraction blossomed into feelings of friendship, at least on Applicant's part. He realized his bad judgment in becoming involved with a convicted terrorist when he applied for a clearance. He did not provide any sensitive information to the prisoner and the prisoner apparently did not attempt to gain any information from him or use him in any way. Since June 2003, no PIRA agent has contacted Applicant or attempted to exploit or manipulate him. Applicant was candid, sincere, and credible at the hearing. I am satisfied his bad judgment is mitigated.

After weighing the disqualifying and mitigating conditions under Guideline E and B, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns based on personal conduct and foreign influence. Accordingly, I conclude he has carried his burden of showing that it is clearly consistent with the national interest to continue his eligibility for access to classified information.

Formal Findings

I make the following formal findings for or against Applicant on the allegations set forth in the SOR, as required by Directive ¶ E3.1.25 of Enclosure 3:

Paragraph 1, Guideline E (Personal Conduct):	FOR APPLICANT
Subparagraphs 1.a-1.c:	For Applicant
Paragraph 2, Guideline B (Foreign Influence):	FOR APPLICANT
Subparagraph 1:	For Applicant

Conclusion

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

LeRoy F. Foreman
Administrative Judge