

KEYWORD: Foreign Influence

DIGEST: Applicant’s mother and nine siblings are citizens of Morocco. One sibling is a high-ranking Moroccan government official. Applicant has strong ties of affection to these immediate family members. He maintains regular, close contact with them. Determination of Trustworthiness is denied.

CASENO: 06-14978.h1

DATE: 05/09/2007

DATE: May 9, 2007

In Re:)	
)	
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SSN: -----)	ADP Case No. 06-14978
)	
Applicant for Trustworthiness Determination)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
JOSEPH TESTAN**

APPEARANCES

FOR GOVERNMENT

Julie R. Edmonds, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant’s mother and nine siblings are citizens of Morocco. One sibling is a high-ranking

Moroccan government official. Applicant has strong ties of affection to these immediate family members. He maintains regular, close contact with them. Determination of Trustworthiness is denied.

STATEMENT OF THE CASE

On April 9, 1993, the Composite Health Care System Program Office (CHCSPO), the Defense Office of Hearings and Appeals (DOHA), and the Assistant Secretary of Defense for Command, Control, Communications and Intelligence (ASDC3I), entered into a Memorandum of Agreement which gave DOHA the responsibility to provide trustworthiness determinations for contractor personnel employed in Information Systems Positions as defined in DoD Regulation 5200.2R, *Personnel Security Program*, dated January 1987.

On August 31, 2006, DOHA issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding that it is clearly consistent with the national interest to make or continue a determination of trustworthiness, suitability, and eligibility for applicant to hold a sensitive Information Systems Position (ADP-I/II/III).

Applicant responded to the SOR in writing on September 25, 2006, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about February 16, 2007. Applicant filed a response to the FORM on or about March 29, 2007. The case was assigned to me on April 16, 2007.

RULINGS ON PROCEDURE

Department Counsel's Motion to amend SOR Paragraph 1.b., set forth on page 4 of the FORM, is granted.

FINDINGS OF FACT

Applicant is 56 years of age. He was born in Morocco. He became a United States citizen in 1992. His spouse, to whom he has been married since 1984, was born in the United States. Their two children were born in the United States.

Applicant's mother and nine siblings are citizens of Morocco. His mother and seven siblings reside in Morocco; one sibling resides in a third country and another resides in the United States. One of applicant's siblings is a high-ranking Moroccan government official, and as such, is an agent of Morocco.

Applicant traveled to Morocco in at least 1997, 1999, 2000 and 2002 to visit his family. He

communicates with his mother every three to four weeks by telephone, and with his siblings once a month by telephone.

In a written statement he gave to the OPM in October 2004, applicant stated he owned a “plot of farm land” in Morocco. In his response to the SOR, he stated he no longer owns any property in Morocco.

CONCLUSIONS

The evidence establishes that applicant’s mother and nine siblings are citizens of Morocco, and that his mother and seven of his siblings reside in Morocco. The evidence further establishes that one of applicant’s siblings is a high-ranking government official and thus an agent of Morocco. These facts require application of Disqualifying Conditions E2.A2.1.2.1 (*an immediate family member . . . is a citizen of, or resident or present in, a foreign country*) and E2.A2.1.2.3 (*relatives . . . who are connected with any foreign government*).

Once the Government established that Disqualifying Condition E2.A2.1.2.1 applied, the burden shifted to applicant to provide facts that support the application of Mitigating Condition E2.A2.1.3.1 (*a determination that the immediate family member(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*). Applicant did not meet his burden for two reasons: First, one of his siblings is an agent of Morocco. Second, the limited evidence he presented does not establish his immediate family members are not in a position to be exploited in a way that could force him to choose between loyalty to those family members and loyalty to the United States.

In reaching my decision in this case, I have considered the factors set forth in Section E2.2 of the Directive. On balance, they do not help applicant. Applicant has lived in the United States for many years, married a native-born American, and has worked and raised his two children here. These are factors in his favor. However, he is still a Moroccan citizen,¹ which leaves him connected to, and in some respects obligated to, Morocco.² He voluntarily maintains close and regular contact with his immediate family members in Morocco, one of whom is a high-ranking Moroccan official. This close contact includes trips to Morocco every two to three years. These trips significantly increase his vulnerability to foreign influence, particularly since he is a citizen of Morocco.³ In view of the foregoing, Guideline B is found against applicant.

¹ In his 2004 written statement to the OPM, applicant claimed he remains a Moroccan citizen because Moroccan government policy prohibits the renunciation of Moroccan citizenship in situations like his.

²In his 2004 written statement to the OPM, he stated, “I do understand my rights, privileges and obligations to both the United States and Morocco.”

³“The government of Morocco considers all persons born to Moroccan fathers to be Moroccan citizens. In addition to being subject to all Moroccan laws, U.S. citizens who also possess the nationality of Morocco may be subject to other laws that impose special obligations on citizens of that country.” Consular Information Sheet, page 4.

FORMAL FINDINGS

GUIDELINE B: AGAINST THE APPLICANT

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for applicant.

Joseph Testan
Administrative Judge