



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



In the matter of: )  
 )  
 ) ISCR Case No. 13-00351  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Candace L. Garcia, Esq., Department Counsel  
For Applicant: *Pro se*

11/22/2013  
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**Decision**  
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LYNCH, Noreen A., Administrative Judge:

On June 4, 2013, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing the basis for its preliminary decision to deny his application for a security clearance, citing security concerns under Guideline C (Foreign Preference), Guideline B (Foreign Influence), and Guideline E (Personal Conduct). 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 adjudicative guidelines (AG) implemented in September 2006.

Applicant timely answered the SOR and elected to have his case decided on the written record. Department Counsel submitted the Government's File of Relevant Material (FORM) on September 19, 2013.<sup>1</sup> The FORM was mailed to Applicant and he received it on October 21, 2013. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant provided additional

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<sup>1</sup>The Government submitted eight items in support of its case.

documentation. The case was assigned to me on November 18, 2013. Eligibility for access to classified information is denied.

### **Procedural and Evidentiary Rulings**

Department Counsel requested that I take administrative notice of certain facts relating to Pakistan. The request and the attached documents are included in the record file. The facts administratively noticed are set out in the Findings of Fact, below.

### **Findings of Fact**

In his answer to the SOR, Applicant admitted the factual allegations under the three guidelines with the exception of ¶¶ 1.a. and 1.b. (Foreign Influence) which he denied. His admissions are incorporated in my findings of fact. I make the following findings:

#### **Foreign Influence**

Applicant is a 32-year-old man, who was born in Pakistan and attended high school in his native land. In December 2003, he came to the United States sponsored by his father. Applicant became a naturalized American citizen on May 20, 2010. (Item 6) He married a woman from Pakistan and sponsored her to come to the United States in August 2011. He has one daughter. (Response to FORM) His wife, who is a citizen of Pakistan residing with him in the United States, possesses a green card.

Applicant has worked as a linguist (CAT II) with mission essential companies since 2012. He has a category 11 interim level security clearance. Applicant has lived and worked as a linguist on U.S. Army installations in Afghanistan. He described the many dangerous missions in Afghanistan in which he has helped.

Applicant has family members who are citizens of Pakistan who reside with him in the United States. His mother is a citizen of Pakistan. She came to the United States in 2001. She does not speak or understand the English language and is not able to apply for U.S. citizenship. Applicant's wife is still a Pakistani citizen because she is not yet eligible to apply for U.S. citizenship, until she has been in the United States for three years.

Applicant's mother-in-law and father-in-law are citizens and residents of Pakistan. His father-in-law retired from the Pakistani Air Force about 25 years ago. Applicant has extended family in Pakistan, including two aunts, a cousin and close friends. He noted that he has contact with them every four or five months by phone. Applicant saw them during his visit to Pakistan in 2011 for his engagement to his future wife.

Applicant has two brothers and one sister who are in the United States and are U.S. citizens. His father is also a U.S. citizen. Applicant acknowledges that he has

inheritance rights to two homes in Pakistan that are owned by his father. He plans to bring his share of the inheritance money to the United States. (Item 6)

Applicant sent money to his family and to his friends during his time in the United States. He does not deny that he provided funds to help his family in Pakistan. He claims that he told the investigator during his interview all details about this issue. (Item 6)

Applicant recently purchased a house in the United States. He wants to remain in the United States and build a future for his wife and daughter. He has a bank account and investments in the United States. (Response to FORM)

Applicant's linguistic and cultural advisory skills have been noted in Certificates of Appreciation. (Response to FORM) He went on missions with the U.S. Army in 2012 and 2013. He has willingly put himself in danger on many occasions in order to help the United States.

There is no evidence in the record that Applicant breached any security policies or procedures while in Afghanistan. He submitted five letters of appreciation for his work in 2012 in Afghanistan. (Response to FORM) All attest to his dedication and skill in providing a great service.

A commanding officer who has worked with Applicant in Afghanistan recommends him for his professional and loyal support. "His aggressive attitude in obtaining valuable information aided greatly in the security and safety of all soldiers and the arrest of many individuals who were involved in criminal activity." He states that Applicant has established an impeccable rapport with many of the village elders, maliks, commanders, and soldiers who trust him completely as an honest and sincere representative of the United States military. (Response to FORM)

## **Foreign Preference**

Applicant possessed a Pakistani passport that he used to travel to Pakistan in 2011. He denied that this was after he was a naturalized U.S. citizen and had his U.S. passport. Applicant noted that he became a naturalized citizen in May 2010 and he renewed his Pakistani passport in March 2010. He used the Pakistani passport for convenience so that he did not have to get a visa. He also noted that he could not afford the visa fee. He further explained that in case of emergency, he did not want to wait for a visa. He referred to visiting his future wife in Pakistan.

Applicant submitted a signed affidavit that he surrendered his Pakistani passport that was set to expire in June 2013 to his Facility Security Officer. (FSO) He did so in September 2012 when he started his work for the U.S. Army in Afghanistan. (Response to FORM) He also renounced citizenship in the affidavit.

## **Personal Conduct**

Applicant completed a security clearance application on August 27, 2012. In response to Section 10: Dual/Multiple Citizenship Information, Applicant noted that in August 2000, he traveled to the United Arab Emirates. However, he did not disclose that he traveled to Pakistan in December 2008 and used his foreign passport. He also did not disclose that he traveled to Pakistan in May 2011, again using his Pakistani passport.

In that same security clearance application, in response to Section 20A - Foreign Activities Foreign Financial Interests - Foreign National Support, Applicant did not disclose that he provided at least \$9,000 of support to his family members or friends from 2003 until 2012. He thought the question did not apply to family, only to business or foreign organizations.

Applicant admitted that in response to Section 22 - Police Record, he did not list a second arrest involving alcohol or drugs in July 2007. He listed the January 2007 arrest for selling alcohol to a minor. Applicant disclosed the February 2007 charge of possession of marijuana on the application. He even noted on the security clearance application that he had been counseled in college in 2011 for plagiarism.

Applicant admitted that when he was 19 years old, he was working for a grocery store and sold beer to a minor. However, he stated that he checked the ID and he thought that it was okay to sell alcohol. He realized he believed the law was the same for cigarettes and alcohol. This incident was in January 2007. (Item 6) He paid a fine and completed probation.

Applicant explained that in February 2007, he was arrested and charged with possession of marijuana. He stated the case was dismissed. He was giving a ride to someone from work who had marijuana.

As a result of the July 2007 charge of selling alcohol to a minor, the Court placed him on probation. He violated that probation. He paid a fine and completed 24 hours community service.

Applicant's September 2012 interview (Item 5) reveals that he clarified that he was involved with the three criminal incidents discussed above after being confronted by the investigator. Applicant explained that he was on probation when he was arrested for the second incident of selling alcohol to a minor in 2007. When questioned as to why he did not list the criminal charge, he responded that "he did not understand half the items on his security clearance application."

## **Administrative Notice**

I take administrative notice of the following facts about Pakistan. Portions of Pakistan's Federally Administered Tribal Areas, Khyber Pakhtunkhwa province, and Balochistan remained a safe haven for terrorist groups seeking to conduct domestic,

regional, and global attacks that constitute a threat to U.S. national security interests. Al-Qa'ida, the Haqqani Network, the Afghan Taliban, Lashkar e-Tayyiba, and other groups exploited the inability of Pakistan's security agencies to fully control portions of its own territory to find refuge and plan operations. Taliban senior leaders continue to be based in Pakistan, which allows them to provide strategic guidance to the insurgency.

The U.S. Department of State has concluded that, in 2012, Pakistan continued to experience significant terrorist violence, including sectarian attacks. The Pakistani military undertook operations against groups that conducted attacks within Pakistan, but other groups were able to continue to operate in Pakistan. Pakistan did not utilize all of its national power to defeat the Afghan Taliban or the Haqqani Network.

On May 1, 2011, U.S. special forces personnel raided a large al-Qa-ida compound located in Pakistan and killed al-Qa'ida leader Osama bin Laden. In announcing bin Laden's death, senior administration officials characterized him as a "sworn enemy of the United States and a danger to all humanity; a man who called for the murder of any American anywhere on Earth," who designated the United States as al-Qa'ida's "primary target," and who was responsible for killing thousands of innocent men and women not only on 9/11, but in the 1998 East Africa embassy bombing, the attack of the USS Cole, and many other acts of brutality." That he was found in a residential neighborhood of Pakistan, in a compound that was "roughly eight times larger than other homes in the area with 12-to-18 foot walls topped with barbed wire," and other "extremely elaborate" physical and operational security measures, highlights the U.S. concerns that terrorists, militants, and insurgents find safe havens in areas of Pakistan.

## **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 occupy a position . . . that will give that person 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 an applicant meeting the criteria contained in the 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 overarching adjudicative goal is a fair, impartial, and commonsense 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 an applicant may deliberately or inadvertently fail to protect classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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 an applicant concerned.” See Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is not necessarily a determination of the loyalty of an 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 an 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 an 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 B (Foreign Influence)**

The security concern under Guideline B 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.

A disqualifying condition 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). Under AG ¶ 7(d) “sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure or coercion” is another disqualifying condition. Finally, AG 7 ¶ (e) “a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation” raises a disqualifying condition.”

Applicant’s wife and mother reside with him in the United States and are citizens of Pakistan. His wife’s parents are citizens and residents of Pakistan. His two aunts, a cousin and some close friends are citizens and residents of Pakistan. Applicant admits that he has contact with them. He visited his in-laws in 2011 and it is likely that his wife is in touch with them. His father-in-law is retired from the Pakistani military. From 2003 until 2012, Applicant gave money to family and friends in need in Pakistan. He estimates that it is approximately \$9,000. He stands to inherit his father’s property in Pakistan. This could create a potential conflict of interest between his security obligations and his desire to help them, only in a situation wherein they were taken hostage or otherwise threatened with harm if Applicant did not cooperate. Applicant has maintained regular contact with them; however, under either disqualifying condition, security concerns could arise in connection with the potential that hostile forces might seek protected information from Applicant by threatening harm to his family members in Pakistan. Based on this evidence, AG ¶¶ 7(a), (b), (d), and (e) are raised.

Since the Government produced evidence to raise the disqualifying conditions in AG ¶¶ 7(a), (b), (d), and (e), 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 never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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 United States, 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 United States.

Security concerns under this guideline can be mitigated by showing that "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). The totality of an applicant's family ties to a foreign country as well as each individual family tie must be considered. ISCR Case No. 01-22693 at 7 (App. Bd. Sep. 22, 2003). Similarly, security concerns can be mitigated under AG 8(b) "there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.")

Applicant has been in the United States since 2003, and he has been a naturalized U.S. citizen since 2010. He has interests in the United States. He has no desire to return to Pakistan to live. Applicant maintains regular contact with his extended family and has visited Pakistan as recently as 2011.

Applicant's work as an interpreter and cultural advisor supported the U.S. military mission in Afghanistan, not the work of those who seek to destroy the growing democracy in Afghanistan. The new Afghanistan government relies upon the United States for support, both financially and militarily, as it moves forward with a new form of government. While Afghanistan's human rights record under the Taliban was dismal and serious problems continue, its human rights record is slowly improving. Since working as an interpreter with the Army for several years, neither Applicant nor his family has been pressured by any organization to provide any type of information, classified or otherwise, about the United States.

In every case where a family member lives overseas, there is a risk of pressure on this relative and through them upon the holder of a security clearance. Under the facts of this case, there is a heightened risk for exploitation, inducement, manipulation, pressure, or coercion. Applicant has significant ties to Pakistan. Applicant has financial or property interests in Afghanistan. He has helped his family financially for many years while living in the United States. He is close to his family, which is laudable. His father-in-



law is a retired officer of the Pakistani military. The country of Pakistan must be considered in the evaluation. AG ¶ 8(a) is not established.

Granted, Applicant wants to help the United States in its role in the redevelopment of Afghanistan. There is nothing about the nature of Applicant's relationships with his family members in Pakistan or the positions or activities of those persons that mitigates the Government's security concerns, especially considering his father-in-law who is a retired Pakistani military officer. Applicant has not presented sufficient information to mitigate the high burden in this case.

Applicant spoke about his undivided loyalty to the United States. Based on the facts in this case, it is not clear that he can be expected to resolve any conflict of interest in favor of the U.S. interest. He endured dangerous conditions in Afghanistan on behalf of the U.S. Army. He has no security violations. However, there remains a heightened risk that has not been mitigated. He has not established application of AG ¶ 8(b) or ¶ 8(c).

### **Foreign Preference**

When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

Dual citizenship standing alone is not sufficient to warrant an adverse security clearance decision. Under Guideline C, "the issue is not whether an applicant is a dual national, but rather whether an applicant shows a preference for a foreign country through actions." ISCR Case No. 98-0252 at 5 (App. Bd. Sep. 15, 1999).

A disqualifying condition may arise from "exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes but is not limited to (1) possession of a current foreign passport." AG ¶ 10(a)(1) Applicant held a valid Pakistani passport that expired in June 2013. Applicant surrendered his Pakistani passport in 2012. He also renounced his Pakistani citizenship.

However, Applicant chose on two separate occasions to leave the United States to travel to Pakistan. He renewed his Pakistani passport in 2010, and traveled in March 2010 and did not become a U.S. citizen until May 2010. He has mitigated SOR allegation 1.b.

As to traveling to Pakistan in 2011, and not using his valid U.S. passport, there is no mitigation. Applicant used the Pakistan passport because of convenience. He has not mitigated SOR allegation 1.c.

## **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern pertaining to personal conduct:

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. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

The following will normally result in an unfavorable clearance action or administrative termination of further processing for clearance eligibility:

- (a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, and cooperation with medical or psychological evaluation; and
- (b) refusal to provide full, frank and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying:

- (a) deliberate omission, concealment, or falsification of relevant 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; and
- (b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

Applicant did not disclose relevant information on his 2012 security clearance application concerning several items. He admitted that he falsified facts on his security clearance application. He did not report travel to Pakistan on a foreign passport in 2008 and 2011. He did not note that he has provided financial support to family members since 2003. Moreover, he listed information about two criminal incidents but he did not list the third. He was confronted by an investigator before he revealed information about the July 2007 criminal charge. Applicant stated that he did not understand half the questions but he did correctly list many unfavorable items. I find that he deliberately failed to disclose significant information. This affects his judgment, trustworthiness, and reliability. AG ¶ 16(a) and 16(b) are applicable.

AG ¶ 17 provides conditions that could mitigate security concerns:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) 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;
- (d) 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;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) the information was unsubstantiated or from a source of questionable reliability; and
- (g) association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Applicant's criminal conduct and questionable behavior in 2007 can be mitigated by time. He has no other criminal incidents on his record. As to SOR allegations 3.a. through 3.d., Applicant has mitigated the events listed due to passage of time and lack of repeat occurrence.

Applicant was not truthful on several occasions concerning important issues on his security clearance. He did not disclose in good-faith until he was confronted by an investigator in 2012. I did not find his explanation credible concerning the fact that he did not understand half the questions.

Applicant did not present any credible information to support any of the mitigating conditions under the personal conduct guideline as to falsification. He has not met his burden to mitigate the security concerns under personal conduct. His falsifications are material.

### **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 commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

The Appeal Board requires the whole-person analysis address "evidence of an applicant's personal loyalties; the nature and extent of an applicant's family ties to the U.S. relative to his or her ties to a foreign country; his or her social ties within the U.S.; and, many others raised by the facts of a given case." ISCR Case No. 04-00540 at 7 (App. Bd. Jan. 5, 2007).

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Certain circumstances weigh against Applicant in the whole-person analysis. First, Applicant has a wife, mother, and in-laws who are citizens of Pakistan. He has extended family with whom he is in contact in Pakistan. He supports family in Pakistan. He has visited as recently as 2011. Terrorists or agents of the Taliban could attempt to use Applicant's family to obtain information. These connections raise the possibility of foreign influence.

A Guideline B decision concerning Pakistan must take into consideration the geopolitical situation and dangers there. Pakistan is a dangerous place because of the violence from the Taliban and terrorists. The Taliban and terrorists continue to threaten the Government, the interests of the United States, U.S. Armed Forces, and those who cooperate with and assist the United States. The United States and Pakistan are allies in the war on terrorism.

A Guideline C decision concerns the exercise of any right or privilege for a foreign country over the United States. Applicant had a Pakistani valid passport, which he has used on two occasions. He has surrendered the passport and renounced his Pakistani citizenship. He has mitigated two allegations under the foreign preference concern.

Under Guideline E, personal conduct, Applicant's admission that he falsified three separate questions on his 2012 security clearance application, weighs heavily against granting a security clearance. He receives some mitigation for the 2007 incidents as they are not recent and have not recurred. However, Applicant has not presented a plausible reason as to why he did not disclose the travel issues and the third arrest in 2007. He discussed these at the 2012 interview, after he was confronted by the investigator. He did not present evidence to show that he made good-faith efforts to disclose the relevant information.

Despite the fact that he is a naturalized U.S. citizen since 2010 and is creating a life with his family in the United States as witnessed by his dedication and work with the U.S. Army, I have doubts about Applicant having access to classified information. There is no evidence that he has ever taken any action that could cause potential harm to the United States. His military supervisors, who work with him daily in a war zone, praised his work in the cause of freedom in Afghanistan. He has no desire to live in Pakistan.

Applicant is a loyal U.S. citizen who has worked under dangerous conditions in support of our national defense. The Appeal Board has held that "generally, an applicant's statements, by themselves, as to what he [or she] would do in the face of threats by a foreign government or entity are entitled to little weight. On the other hand, an applicant's proven record of action in defense of the United States is very important and can lead to a favorable result for an applicant in a Guideline B case."<sup>2</sup>

Applicant served the United States in a dangerous, high-risk situation and his character references establish his significant contributions to U.S. national security. While contribution to a company is not normally to be considered a factor in granting a clearance, the Appeal Board noted in ISCR Case. No. 05-03846 at 6 (App. Bd. Nov. 14, 2006):

As a general rule, Judges are not required to assign an applicant's prior history of complying with security procedures and regulations significant probative value for purposes of refuting, mitigating, or extenuating the security concerns raised by applicant's more immediate disqualifying conduct or circumstances. See, e.g. ISCR Case. No. 01-03357 at 4 (App. Bd. Dec. 13, 2005); ISCR Case No 02-10113 at 4 (App. Bd. Mr. 25, 2005); ISCR Case No. 03-10955 at 2-3 (App. Bd. May 30, 2006). However, the Board has recognized an exception to that general rule in Guideline B cases, where the applicant has established by credible, independent evidence that his compliance with security procedures and

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<sup>2</sup>ISCR Case 04-02511 at 4 (App. Bd. Mar. 20, 2007).

regulations occurred in the context of dangerous, high-risk circumstances in which the applicant made a significant contribution to the nation's security. See, e.g. ISCR Case No. 04-12363 at 2 (App. Bd. July 14, 2006). The presence of such circumstances can give credibility to an applicant's assertion that he can be relied upon to recognize, resist, and report to a foreign power's attempts at coercion or exploitation.

After weighing the disqualifying and mitigating conditions, and all facts and circumstances in the context of the whole person, I conclude Applicant has not mitigated the security concerns pertaining to foreign influence or foreign preference. The complicated state of affairs in Pakistan places a significant burden on Applicant to demonstrate that his foreign family member does not pose an unacceptable security risk. He has not met that burden.

Moreover, with respect to personal conduct security concerns, Applicant has not met his burden. He did not disclose material information on his security clearance application. He did not present credible information that he made good-faith efforts to correct the misleading information before being confronted by the facts. Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance.

### **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, Foreign Preference:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Paragraph 2, Foreign Influence:	AGAINST APPLICANT
Subparagraphs 2.a through 2. i:	Against Applicant
Paragraph 3, Personal Conduct:	AGAINST APPLICANT
Subparagraphs 3.a through 3.d:	For Applicant
Subparagraphs 3.e through 3.g:	Against Applicant

### **Conclusion**

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

Noreen A. Lynch  
Administrative Judge