



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



In the matter of:	)	
	)	
XXXXX, Xxxxx	)	ISCR Case No. 14-02884
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: David F. Hayes, Esquire, Department Counsel  
For Applicant: *Pro se*

04/03/2015

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> Applicant’s clearance is granted.

On 18 July 2014, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant raising security concerns under Guideline B (Foreign Influence).<sup>2</sup> Applicant timely answered, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 23 October 2014, and I convened a hearing 19 November 2014. DOHA received the transcript (Tr.) 2 December 2014.

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibit (GE) 1, and hearing exhibit (HE) I.

<sup>2</sup>DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

## Findings of Fact

Applicant denied SOR 1.a because her husband now lives in Pakistan, not the United Kingdom (U.K.), and she denied SOR 1.b because her mother died in March 2014. She admitted the remaining SOR allegations. She is a 28-year-old programmer/analyst sponsored for clearance by a defense contractor since October 2013.<sup>3</sup> She has not previously held a clearance, but was employed in a public trust position from February 2008 to August 2011.

Applicant was born in Pakistan in January 1986. She attended school there, and graduated from college in September 2007 with a degree in information technology. She immigrated to the U.S. in February 2008, and became a naturalized U.S. citizen in April 2013. Her most recent Pakistani passport was issued in September 2006 and expired in September 2011. She last used it to travel to Pakistan from December 2009 to January 2010, when she visited family. She obtained her U.S. passport in August 2013. She used it to travel to Pakistan in November 2013 for her wedding.

Applicant married a Pakistani national, in Pakistan, in November 2013. He was living in the U.K., but has returned to school in Pakistan. Applicant has sponsored him to immigrate to the U.S.

Applicant is the second youngest of six siblings. Her parents are deceased. At their deaths, both had been living in the U.S. for several years. Her oldest sister (by nearly 24 years) is a resident citizen of Pakistan. She is a homemaker. Her husband, also a resident citizen of Pakistan, runs his father's business. Applicant's oldest brother (by almost 20 years) is a resident citizen of Pakistan, as is his wife. They are both medical doctors. Applicant has another older sister who is a U.S. citizen living in Pakistan with her husband, a citizen of Pakistan, while she sponsors him for entry into the U.S. None of Applicant's relatives in Pakistan live in areas known to provide safe havens for terrorist groups. Applicant has weekly contact with her husband, but has little contact with her older siblings residing in Pakistan.

Applicant's remaining siblings live with her in the U.S. Her older brother is a naturalized U.S. citizen. Her younger brother and his wife (who also lives with Applicant) are citizens of Pakistan. They are both legal permanent residents of the U.S., but have applied for U.S. citizenship.

All Applicant's financial interests are located in the U.S. She does not intend to return to Pakistan.

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<sup>3</sup>However, Applicant also worked for this employer as a linguist from October 2010 to February 2011. From January 2000 to October 2010, and between stints with his current employer, Applicant worked as a store manager for a local pharmacy chain. He is on a leave of absence from that company, to which he will return when he is finished with his linguist contract.

Pakistani law does not permit dual citizenship or nationality except with the U.K. and Commonwealth nations. Under the Pakistan Citizenship Law of 1951, Applicant ceased to be a Pakistani citizen when she acquired U.S. citizenship.

Pakistan is an Islamic parliamentary democracy with a poor human rights record, including extrajudicial killings, torture and rape by security forces, lack of judicial independence, arbitrary arrest, wide-spread government corruption, and the disappearance and imprisonment of political opponents. Nevertheless, Pakistan has had diplomatic relations with the U.S. since 1947 and has actively cooperated with the U.S. in the global war on terrorism. However, terrorist groups operate in Pakistan, making safety and security an issue. Extremist groups in Pakistan target American and other Western interests, senior Pakistani officials, and members of minority indigenous and religious groups. Pakistan is not on the National Counterintelligence Center's list of most active nations engaging in foreign economic collection and industrial espionage. It is not known to be an active collector of U.S. intelligence information, nor is it known to target its expatriate former citizens to obtain U.S. information.

### **Policies**

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline B (Foreign Influence).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, disputed facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the required judgment, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.<sup>4</sup>

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<sup>4</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

## Analysis

The Government established a case for disqualification under Guideline B, but Applicant mitigated the security concerns. Under Guideline B (Foreign Influence), an applicant's foreign contacts and interests may raise security concerns if the individual 1) has divided loyalties or foreign financial interests, 2) may be manipulated or induced to help a foreign person, group, organization, or government in a way contrary to U.S. interests, or 3) is vulnerable to pressure or coercion by any foreign interest. Foreign influence adjudications 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, whether the country is known to target U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.<sup>5</sup>

Evaluation of an individual's qualifications for access to protected information requires careful assessment of both the foreign entity's willingness and ability to target protected information, and to target expatriates who are U.S. citizens to obtain that information, and the individual's susceptibility to influence, whether negative or positive. More specifically, an individual's contacts with foreign family members (or other foreign entities or persons) raise security concerns only if those contacts create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.<sup>6</sup>

While Applicant has only recently become a U.S. citizen, she has no significant bonds of affection and obligation to family in Pakistan. Her parents, both dead, had long been legal permanent residents of the U.S. Applicant has no financial interests in Pakistan. She has sponsored her husband to immigrate to the U.S., which should occur in due course. A similar resolution awaits her sister's husband.

None of Applicant's foreign family members have any apparent connection to the Pakistani government, and while Pakistan is not the most stable of regimes in the region, it is not known to pursue U.S. government information or to target its former citizens for that information. Moreover, none of her family members live in regions of Pakistan subject to significant threat of terrorist activity. Applicant's limited contacts with family members in Pakistan raise little risk of influence adverse to Government interests. I resolve Guideline B for Applicant.

### Formal Findings

Paragraph 1. Guideline B:	FOR APPLICANT
Subparagraphs a.-f.:	For Applicant

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<sup>5</sup>¶ 6.

<sup>6</sup>¶ 7 (a).

## **Conclusion**

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

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JOHN GRATTAN METZ, JR  
Administrative Judge