



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



In the matter of:	)	
	)	
	)	ISCR Case No. 14-00778
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Ray T. Blank, Jr., Esq., Department Counsel  
For Applicant: *Pro se*

07/31/2014

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**Decision**

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LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the foreign preference security concerns, but he has not mitigated the foreign influence security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On April 10, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines B (foreign influence) and C (foreign preference). The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

Applicant responded to the SOR on April 28, 2014, and June 4, 2014, and elected to have the case decided on the written record in lieu of a hearing. The Government's written case was submitted on June 5, 2014. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an

opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant responded with a memorandum that has been marked Applicant's Exhibit (AE) A. The case was assigned to me on July 30, 2014. The Government exhibits included in the FORM and AE A are admitted without objection. Department Counsel requested that I take administrative notice of certain facts about Jordan. Applicant did not object, and the request is granted.

### **Findings of Fact**

Applicant is a 47-year-old employee of a defense contractor. He has worked for his current employer since July 2013. He is applying for a security clearance. He has a bachelor's degree and a master's degree. He married in 1990 and divorced in 1997. He married again in 2006 and divorced in 2007. He married his current wife in 2010. He has a two-year-old child from his current marriage.<sup>1</sup>

Applicant was born in a foreign country to Jordanian parents. He was a Jordanian citizen, and he was never a citizen of his country of birth. At some point in his youth, his family moved to Jordan and he was educated there. He completed high school in Jordan in 1984 and came to the United States the same year. He attended college and graduate school in the United States. He remained in the United States and married a U.S. citizen in 1990. He became a U.S. citizen in 1993.<sup>2</sup>

Applicant's parents are citizens of Jordan. His father is a retired politician who held office in Jordan. Applicant's parents obtained permanent residence status in the United States, but it appears that they still spend most of their time in Jordan.<sup>3</sup>

Applicant has three siblings. Two of his siblings are citizens of Jordan. One of his siblings is a Jordanian resident. His second sibling has permanent residence status in the United States, but it appears that this sibling still lives mostly in Jordan. Applicant has a third sibling who lives in the United States and is a dual citizen of the United States and Jordan.<sup>4</sup>

Applicant married his current wife in Jordan. She is a Jordanian citizen with U.S. permanent residence status, and she has applied to become a U.S. citizen. Their child was born in Jordan in 2012. Their child is a U.S. citizen.<sup>5</sup>

Applicant's parents-in-law are citizens and residents of Jordan. His father-in-law is retired. With the exception of Applicant's father who held office in Jordan, none of

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<sup>1</sup> Items 4, 5; AE A.

<sup>2</sup> Items 4, 5; AE A.

<sup>3</sup> Items 2, 4, 5.

<sup>4</sup> Items 2, 4, 5.

<sup>5</sup> Items 2, 4, 5.

Applicant's immediate family or in-laws has any association with the Jordanian government.<sup>6</sup>

Applicant continued to maintain and use his Jordanian passport after he became a U.S. citizen. He last renewed his Jordanian passport in April 2009. It expired in April 2014. Now that he is aware that the passport could be a concern, Applicant stated that he will not renew the passport.<sup>7</sup>

Applicant maintains a bank account in Jordan that he uses when he travels there. He keeps about \$5,000 in the account. He indicated that his "loyalty to the U.S. is undivided." He stated this country gave him and his family their full rights under the law, a job, and a beautiful home. He has health problems. He stated that his "biggest concern is taking care of [his] family, [his] condition and maintaining [his] work and health insurance." Applicant has spent much of the last 13 years working for federal contractors.<sup>8</sup>

## **Jordan**

Jordan is a constitutional monarchy with a developing economy and a modern infrastructure. Jordan has followed a pro-western foreign policy and has had close relations with the United States for six decades.

The Jordanian government respects human rights in some areas, but its overall record continues to reflect some problems. Problems include: torture, arbitrary arrest, prolonged detention, denial of due process, infringement on citizens' privacy rights, political detainees, and restrictions on freedom of speech, press, assembly, association, and movement.

The Jordanian government publicly condemned terrorist acts throughout the world, practiced strict security measures, passed new anti-terror legislation, and disrupted several terrorist plots. Despite Jordan's aggressive pursuit of terrorists, the threat of terrorism remains high in Jordan. Al-Qaida has focused terrorist activities against Jordan and U.S. interests in Jordan.

The Jordanian government considers U.S.-Jordanian dual nationals to be Jordanian citizens. Local authorities typically do not notify the U.S. Embassy of arrests, detentions, or accidents involving dual nationals.

Under Jordanian law, any adult male may prevent a female or child relative from leaving Jordan by registering a hold on their travel with the Jordanian authorities. This is possible even if the child or woman holds only U.S. nationality. Jordanian authorities consider disputes surrounding travel holds as family matters, and the U.S. Embassy is

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<sup>6</sup> Items 2, 4, 5.

<sup>7</sup> Items 2, 4, 5.

<sup>8</sup> Items 2, 4, 6; AE A.

limited in its ability to intervene. Travel holds may only be removed by the person who placed them or by a court.

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## Analysis

### Guideline C, Foreign Preference

The security concern for foreign preference is set out in AG ¶ 9:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 10. The following are potentially applicable in this case:

(a) 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; and

(b) action to acquire or obtain recognition of a foreign citizenship by an American citizen.

Applicant possessed and used a Jordanian passport while a U.S. citizen. AG ¶ 10(a) is applicable. The renewal of his Jordanian passport while a U.S. citizen could raise a concern under AG ¶ 10(b), as an action to obtain recognition of his Jordanian citizenship.

Conditions that could mitigate foreign preference security concerns are provided under AG ¶ 11. The following is potentially applicable:

(e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated.

Applicant's passport is expired and he does not intend to renew it. AG ¶ 11(e) is applicable.

### Guideline B, Foreign Influence

The security concern for foreign influence is set out in AG ¶ 6:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 7. The following are potentially applicable in this case:

- (a) 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;
- (b) 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;
- (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; and
- (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.

Applicant has immediate family members and in-laws who are Jordanian citizens. Except for his wife, they all live predominantly in Jordan. Jordan has had close relations with the United States for many years, and it respects human rights in some areas. But it also continues to have human rights problems, and it has been victimized by terrorist attacks. Applicant's foreign contacts create a potential conflict of interest and a heightened risk of foreign exploitation, inducement, manipulation, pressure, and coercion, both directly and through his wife. AG ¶¶ 7(a), 7(b), and 7(d) have been raised by the evidence.

The amount of money in Applicant's Jordanian bank account is too minor to subject him to a heightened risk of foreign influence or exploitation. SOR ¶ 1.d is concluded for Applicant.

SOR ¶ 1.e alleges information that is already encompassed under SOR ¶ 1.b. When the same information is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005) (same debt alleged twice). Accordingly, SOR ¶ 1.e is concluded for Applicant.

Conditions that could mitigate foreign influence security concerns are provided under AG ¶ 8. The following are potentially applicable:

(a) 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.; and

(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.

I considered the totality of Applicant's family ties to Jordan. There is a close relationship between the United States and Jordan. However, 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.<sup>9</sup>

The distinctions between friendly and unfriendly governments must be made with caution. Relations between nations can shift, sometimes dramatically and unexpectedly. 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. 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, the country is known to conduct intelligence operations against the United States, or the foreign country is associated with a risk of terrorism.

Applicant came to the United States in 1984. He married a U.S. citizen, attended college and graduate school, and became a U.S. citizen in 1993. He maintained a Jordanian passport, but he stated that he will not renew it. His current wife is a permanent U.S. resident in the process of applying for U.S. citizen. His child is a U.S.-citizen living in the United States. However, most of his remaining family members are in Jordan. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." AG ¶

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<sup>9</sup> ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004).

8(a) is applicable to his wife. However, I am unable to find any of the mitigating conditions to be fully applicable to his family members who live in Jordan.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The 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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines B and C in this whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Applicant is a loyal U.S. citizen who is seeking to aid this country. However, he was unable to mitigate the considerable security concerns raised by his family ties to Jordan.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the foreign preference security concerns, but he has not mitigated the foreign influence security concerns.

### **Formal Findings**

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



Paragraph 1, Guideline B:	Against Applicant
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.b: <sup>10</sup>	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline C:	For Applicant
Subparagraph 2.a:	For 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.

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Edward W. Loughran  
Administrative Judge

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<sup>10</sup> There are two subparagraphs 1.b in the SOR.