

DATE: April 29, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-10818

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Martin H. Mogul, Department Counsel

FOR APPLICANT

Karen L. Manos, Attorney at Law

STATEMENT OF THE CASE

On December 18, 2001, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, (as administratively reissued on April 20, 1999), issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

Applicant responded to the SOR in writing on January 18, 2002. A Notice of Hearing was issued on March 11, 2002. The case was assigned to the undersigned on March 22, 2002, and the hearing was held on April 9, 2002. The transcript was received on April 19, 2002.

FINDINGS OF FACT

Applicant is a thirty-six year old merchant seaman. He is seeking a security clearance in connection with his employment.

Guideline C

Applicant was born and raised in the United States. In the early 1990s, he learned that because of his FC ancestry, he could apply for FC citizenship. In 1992, he applied for and received FC citizenship. In a signed sworn statement that he gave to the Defense Investigative Service (DIS) in August 2000, he stated that he did so for three reasons: (1) For bragging rights within his family, (2) to be able to travel more freely, and (3) he could travel in a country that was hostile to the United States if he chose to do so (Exhibit 2). By applying for FC citizenship he was not expressing a preference for FC over the United States. In fact, if in order to obtain FC citizenship he had to either renounce his United States citizenship or take an oath of allegiance to FC, he would not have applied for FC citizenship (TR at 24-25). He would not bear arms for FC. He would, however, bear arms against FC if the United States and FC were at war

(TR at 25).

In 1994, applicant applied for and received an FC passport. He saw the FC passport "as a tool to travel, to make traveling easier" (TR at 40).

Applicant applied for a security clearance in September 1999. On the security clearance application (SCA) that he submitted, he disclosed that he was a dual citizen and that he possessed an FC passport (Exhibit 1). In August 2000, he was interviewed by a Special Agent with the DIS. At the time of the interview, applicant was not advised that his FC citizenship or his possession of an FC passport would pose a problem with his security clearance request (TR at 27).

In December 2001, applicant received the SOR and learned for the first time that his FC citizenship and possession of the FC passport would require a denial of his clearance request. He then took immediate steps to renounce his FC citizenship and to surrender the FC passport. Exhibit C confirms that (1) he surrendered his passport to an FC consulate, (2) he filed the appropriate paperwork to renounce his FC citizenship, (3) the paperwork has been forwarded to FC by the FC consulate, and (4) his renunciation of FC citizenship is an "irreversible process."

Guideline F

When applicant was interviewed by the DIS in August 2000, the issue of his financial condition, specifically two outstanding debts, was discussed. He was advised of a \$76.00 debt that he was unaware of. He tracked down the collection agency and paid the debt in September 2000 even though the collection agency was unable to tell him what the debt was for (TR at 31-33, 54; Exhibit D). The second debt was a student loan debt. Applicant had not been repaying the debt as agreed. His failure to honor the terms of the debt agreement was not the result of being financially overextended; rather, it was the result of "a little laziness," "irresponsibility" and "immaturity," and his extended travel in connection with his merchant seaman duties (TR at 36, 57). In May 2001, he signed a Default Rehabilitation Agreement with the creditor requiring him to begin making \$100.00 monthly payments on the \$15,946.49 debt. By making the agreed-upon payments, as well as some extra payments, the debt has been reduced to \$12,783.74 as of January 2002 (Exhibit E). At present, he is current on all of his financial obligations (TR at 60, 77-78). Applicant's current income is sufficient to cover his current expenses, including the \$100.00 payment (TR at 71).

POLICIES

Enclosure 2 of the Directive sets forth Guidelines (divided into conditions that could raise a security concern and conditions that could mitigate security concerns) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following Disqualifying Factors and Mitigating Factors are applicable:

Foreign Preference

Conditions that could raise a security concern:

1. The exercise of dual citizenship.
2. Possession and/or use of a foreign passport.

Conditions that could mitigate security concerns:

1. Dual citizenship is based solely on parents' citizenship.
4. Individual has expressed a willingness to renounce dual citizenship.

Financial Considerations

Conditions that could raise a security concern:

1. A history of not meeting financial obligations.

Conditions that could mitigate security concerns:

6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

CONCLUSIONS

Applicant was born and raised in the United States. By virtue of his FC ancestry, he was eligible to obtain FC citizenship and an FC passport. In 1992, applicant applied for and received FC citizenship, and in 1994 he applied for and received an FC passport. He took this action because, among other reasons, he thought it would make foreign travel easier for him. In his mind, since dual citizenship was legal under United States law, there was nothing improper about obtaining FC citizenship or an FC passport. Once applicant learned that his possession of FC citizenship and an FC passport would prevent him from obtaining a security clearance, he took immediate steps to renounce his FC citizenship and to surrender his FC passport. As of the date of this decision, his FC passport has been surrendered, and his application to renounce his FC citizenship is pending with FC. Since his decision to renounce his FC citizenship is irreversible, he will not be able to regain his FC citizenship in the future. Based on these facts, and the fact that applicant has always clearly preferred the United States over FC, Guideline C is found for applicant.

With respect to his finances, applicant acted irresponsibly in the handling of his student loan debt. To his credit, however, he has accepted responsibility for his actions, and has remedied the situation by entering into a new agreement with the creditor and by honoring that agreement. In view of these facts, and the fact that applicant's current financial condition is stable, Guideline F is found for applicant.

FORMAL FINDINGS

PARAGRAPH 1: FOR THE APPLICANT

PARAGRAPH 2: FOR THE APPLICANT

DECISION

In light of all 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.

Joseph Testan

Administrative Judge