

DATE: May 20, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-24043

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's actions since moving to the United States in 1984 indicate a clear preference for the United States over the Philippines. Clearance is granted.

STATEMENT OF THE CASE

On November 15, 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, 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 December 6, 2001, and elected to have her case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case on or about February 4, 2002. Applicant filed a response to the Government's written case on March 6, 2002. Department Counsel did not object to applicant's response. The case was received by the undersigned Administrative Judge on March 11, 2002.

FINDINGS OF FACT

Applicant is twenty-five years of age.

Applicant was born in the Philippines. She moved to the United States in 1984 and has lived here since then. In January 1997, she was issued a Philippine passport. She used it to travel to the Philippines on three occasions to visit relatives.

In September 2000, applicant became a naturalized United States citizen. In October 2000, she was issued a United States passport. In December 2001, her Philippine passport was cancelled. A letter from a Philippine consulate indicates that applicant's Philippine passport was cancelled because, under Philippine law, when she acquired United States

citizenship, she was deemed to have renounced her Philippine citizenship.

Applicant's parents are naturalized United States citizens. She has aunts and uncles that are citizens of the Philippines. Since moving to the United States she has had contact with only one aunt and one uncle, and those contacts have been infrequent. There is no evidence that any of applicant's relatives are in a position to exert undue influence over her.

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 Influence

The Concern: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Conditions that could raise a security concern:

None.

Conditions that could mitigate security concerns:

3. Contact and correspondence with foreign citizens are casual and infrequent.

Foreign Preference

The Concern: 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.

Conditions that could raise a security concern:

2. Possession and/or use of a foreign passport.

Conditions that could mitigate security concerns:

2. Indicators of possible foreign preference occurred before obtaining United States citizenship.

The Money Memorandum

On August 16, 2000, Mr. Arthur L. Money, Assistant Secretary of Defense for Command, Control, Communications and Intelligence, issued a memorandum clarifying "the application of Guideline C to cases involving an applicant's possession or use of a foreign passport." In essence, the Money memorandum requires a denial of the security clearance request under Guideline C unless the applicant offers credible evidence that he or she (1) has obtained official approval for the use of the foreign passport from the appropriate United States Government agency, or (2) has surrendered the passport.

CONCLUSIONS

Based on the evidence presented, I conclude that applicant's ties to the Philippines (1) do not leave her potentially vulnerable to coercion, exploitation or pressure that could result in the compromise of classified information, and (2) do not indicate a preference for the Philippines over the United States.

With respect to Guideline B, the evidence does not establish that applicant is vulnerable to foreign influence. Although applicant has aunts and uncles living in the Philippines, there is no credible evidence that these relatives are in a position to be exploited by the Philippines in a way that could force applicant to choose between loyalty to these relatives and loyalty to the United States.

With respect to Guideline C, the evidence establishes that applicant has lived in the United States since 1984. She applied for and received United States citizenship in 2000. By doing so, she automatically renounced her Philippine citizenship, which led to the cancellation of her Philippine passport. ⁽¹⁾ Applicant's conduct since 1984 indicates a clear preference for the United States over the Philippines. Based on these facts, Guideline C is found for applicant.

FORMAL FINDINGS

GUIDELINE B: FOR THE APPLICANT

GUIDELINE C: 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

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