

DATE: June 27, 2003

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 02-05064

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Melvin A. Howry, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant's 81 year old mother is a citizen and resident of the Philippines. She has no connection to the Philippine government. Applicant's security-worthiness is not affected by his mother's citizenship or residence. Clearance is granted.

**STATEMENT OF THE CASE**

On January 2, 2003, 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 February 6, 2003. The case was assigned to the undersigned on April 4, 2003, and a Notice of Hearing was issued on April 21, 2003. The hearing was held on May 21, 2003. The transcript was received on June 6, 2003.

**FINDINGS OF FACT**

Applicant is a 49 year old employee of a defense contractor.

Applicant was born and raised in the Philippines. In 1976, while still a citizen of the Philippines, he enlisted in the United States Navy. He served honorably in the Navy until 2001. He held a security clearance during part of the time he served in the Navy.

Applicant became a naturalized United States citizen in 1987. His wife became a naturalized United States citizen in

1990.

Applicant's mother is a citizen and resident of the Philippines. She is 81, deaf and ailing. She has no connection to the Philippine government. She has never asked applicant what he does for a living. Applicant has sent her money on a monthly basis since 1976. He currently sends her \$125.00 per month. Applicant and his mother exchange letters once or twice a month. From 1979 to 1990, he visited the Philippines approximately once a year. From 1990 to the present time, he visited the Philippines two or three times. He last went there in 2000 for his father's funeral.

## **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:**

1. An immediate family member is a citizen or resident of a foreign country.

#### **Conditions that could mitigate security concerns:**

1. The immediate family member in question is not an agent of the foreign power or in a position to be exploited by the foreign power in a way that could force applicant to choose between loyalty to the immediate family member and the United States.

## **CONCLUSIONS**

The only immediate family member applicant has in the Philippines is his mother. Based on the evidence presented, I conclude that applicant's mother is not an agent of the Philippine government, or in a position to be exploited by the Philippines in a way that could force applicant to choose between loyalty to his mother and loyalty to the United States.

(1) I reach this conclusion for at least three reasons: First, there is no evidence that applicant's mother is connected to the Philippine government. Given her advanced age and poor health, such a connection is hard to imagine. Second, it is highly unlikely that the Philippines, a friend and ally of the United States, would risk threatening its relationship with the United States by exploiting an elderly private citizen for the purpose of forcing a United States citizen to betray the United States. Third, applicant spent half of his life serving honorably in the United States Navy. He and his wife have become naturalized United States citizens, and have made the United States their home. These facts lead me to conclude that applicant is a reliable and trustworthy individual who is loyal to the United States, and who, in the unlikely event pressure was exerted upon him to compromise classified information, would resist it, and would report the incident to the proper authorities.

## **FORMAL FINDINGS**

GUIDELINE B: 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.

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Joseph Testan

Administrative Judge

1. Accordingly, Mitigating Condition 1 is applicable to this case.