

KEYWORD: Foreign Influence

DIGEST: Applicant's parents and two siblings are citizens and residents of Syria. A determination that these immediate family members are not in a position to be exploited by Syria cannot be made. Clearance is denied.

CASE NO: 02-27364.h1

DATE: 06/30/2004

DATE: June 30, 2004

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 02-27364

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Jason Perry, Department Counsel

**FOR APPLICANT***Pro Se***SYNOPSIS**

Applicant's parents and two siblings are citizens and residents of Syria. A determination that these immediate family members are not in a position to be exploited by Syria cannot be made. Clearance is denied.

**STATEMENT OF THE CASE**

On January 23, 2004, 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 February 4, 2004, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about April 28, 2004. Applicant filed a response to the FORM on May 16, 2004. The case was assigned to me on June 8, 2004.

**RULINGS ON PROCEDURE**

In the FORM, Department Counsel requested that the sole factual allegation under Guideline C "be withdrawn." This request, which will be considered a Motion to Amend the SOR, is granted. Accordingly, the SOR is amended by deleting Guideline C.

**FINDINGS OF FACT**

Applicant is a 39 year old software developer.

Applicant was born in Syria. In 1987, he moved to the United States. He became a naturalized United States citizen in 1994. His wife, to whom he has been married since 1989, is a native born United States citizen. His two children were born in the United States.

Applicant's parents and two siblings are citizens and residents of Syria. He maintains regular contact with his family in Syria.

Applicant traveled to Syria in 1991, 1997 and 2001 to visit his family. Since 1987, his parents have visited applicant in the United States four times, his brother has visited him in the United States three times, and his sister has visited him in the United States twice.

In a signed, sworn statement that he gave to the Defense Security Service (DSS) in June 2002 (Exhibit 5), applicant stated that he is "not willing to renounce [his] Syrian citizenship at this time because it could harm [his] parents." In his response to the FORM, he stated that he is unwilling to renounce his Syrian citizenship "because at minimum it might prevent [him] from visiting [his] parents in Syria in the future."

Applicant states that his loyalty is "completely with the United States" (Exhibit 5).

## CONCLUSIONS

The evidence establishes that applicant's parents and two siblings are citizens and residents of Syria, a country that is clearly hostile to the United States. This fact requires application of Disqualifying Condition E2.A2.1.2.1 (*an immediate family member is a citizen or resident of a foreign country*).

Once the Government established that Disqualifying Condition E2.A2.1.2.1 is applicable, the burden shifted to applicant to show that (1) his family ties with relatives living in Syria do not pose a security risk and (2) Mitigating Condition E2.A2.1.3.1 (*a determination that the immediate family member(s) . . . are not agents of a foreign power, or in a position to be exploited by a foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the United States*) applies to this case. <sup>(1)</sup> Applicant failed to meet his burden. Based on applicant's close relationship with the four family members in question, and the brutal and unpredictable nature of the Syrian government, I cannot conclude that applicant's family members in Syria are not in a position to be exploited by Syria in a way that could force applicant to choose between loyalty to these family members and loyalty to the United States.

**FORMAL FINDINGS**

**PARAGRAPH 1: AGAINST THE APPLICANT**

All subparagraph found against the applicant

**DECISION**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for applicant.

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Joseph Testan

Administrative Judge

1. ISCR Case No. 01-26893 (October 16, 2002) at page 8.