

KEYWORD: Foreign Influence

DIGEST: Applicant's wife, children, and 17 siblings are citizens and residents of Yemen. A determination that these immediate family members are not in a position to be exploited by Yemen cannot be made. Clearance is denied.

CASENO: 02-27838.h1

DATE: 01/27/2005

DATE: January 27, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-27838

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Edward W. Loughran, Department Counsel

FOR APPLICANT

SYNOPSIS

Applicant's wife, children, and 17 siblings are citizens and residents of Yemen. A determination that these immediate family members are not in a position to be exploited by Yemen cannot be made. Clearance is denied.

STATEMENT OF THE CASE

On November 5, 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, 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 late November 2003, 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 12, 2004. Applicant filed a response to the FORM in May 2004. The case was assigned to me on July 7, 2004.

FINDINGS OF FACT

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

Applicant was born in Yemen. In 1996, he became a naturalized United States citizen. His wife, to whom he has been married since 1993, is a citizen and resident of Yemen, as are his two children and three stepchildren. His 17 brothers and sisters are also citizens and residents of Yemen.

Applicant has traveled to Yemen several times in the past seven years to spend time with his family. [\(1\)](#)

CONCLUSIONS

The evidence establishes that applicant's wife, children and 17 siblings are citizens and residents of Yemen. 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 Yemen 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. Applicant failed to meet his burden. Based on applicant's close relationship with his immediate family members in Yemen, as evidenced by his several trips to Yemen to visit them during the past seven years, I cannot conclude that applicant's immediate family members in Yemen are not in a position to be exploited by Yemen 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

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.

Joseph Testan

Administrative Judge

1. *See*, Response to Form.