

DATE: April 7, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-29528

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Daniel F. Crowley, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's conduct since moving to the United States in 1995 has indicated a clear preference for the United States over Ethiopia. Clearance is granted.

STATEMENT OF THE CASE

On November 14, 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 January 9, 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 May 17, 2004. Applicant filed a response to the FORM on or about June 5, 2004. The case was assigned to me on July 9, 2004.

FINDINGS OF FACT

Applicant is a 45 year old employee of a defense contractor.

Applicant was born in the Ethiopia. He has lived in the United States continuously since at least 1995. In 2001, he became a United States citizen.

Applicant's mother, father, and three of his siblings are citizens and residents of the Ethiopia. Applicant has contact with them "generally during the holidays and approximately once every three months by telephone." None of these family members "worked or do work for a foreign government, nor have they held any political office"(Exhibit 5). Two of

applicant's siblings reside in the United States. One became a United States citizen in 2002; the other remains a citizen of Ethiopia.

Applicant has no financial ties with, and owns no property in, Ethiopia.

Applicant traveled to Ethiopia for about three weeks in early 2001. This was his first trip in 13 years to visit his family. He did not disclose this trip on a Security Clearance Application (SCA) he executed in April 2002. The Government concedes this was not an intentional misrepresentation. [\(1\)](#)

CONCLUSIONS

With respect to Guideline B, the evidence establishes that applicant's mother, father, and three of his siblings are citizens and residents of Ethiopia and that one of his siblings, although a resident of the United States, is a citizen of Ethiopia. These facts require application of Disqualifying Condition E2.A2.1.2.1 (*an immediate family member . . . is a citizen of, or resident or present in, a foreign country*).

There is no evidence that any of applicant's Ethiopian family members are agents of Ethiopia. In addition, there is no evidence that any of these family members are in a position to be exploited by the Ethiopia in a way that could force applicant to choose between loyalty to these family members and loyalty to the United States. Based on these facts, Mitigating Condition E2.A2.1.3.1 (*a determination that the immediate family member(s) in question 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*), is applicable, and Guideline B is found for applicant.

With respect to Guideline C, the only factual allegation is that applicant failed to disclose on an SCA that he traveled to Ethiopia in 2001. It is difficult to understand how this alleged falsification indicates applicant has a preference for Ethiopia over the United States. [\(2\)](#)

In any event, the evidence establishes that since at least 1995, applicant's conduct has indicated a clear preference for the United States over the Ethiopia. Given this fact, Guideline C is found for applicant.

FORMAL FINDINGS

GUIDELINE B: FOR THE APPLICANT

Subparagraph 1a: for the applicant

Subparagraph 1b: for the applicant

Subparagraph 1c: for the applicant

GUIDELINE C: FOR THE APPLICANT

Subparagraph 2a: 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

1. FORM, Page 6.

2. Guideline C, E2.A3.1.1., *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.