

DATE: August 24, 2004

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-29673

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Jennifer I. Campbell, Department Counsel

FOR APPLICANT

Thomas M. Abbott Esq.

SYNOPSIS

The fact that applicant's mother and brother are residents of Lebanon does not leave him vulnerable to coercion or pressure. In addition, applicant's conduct since arriving in the United States in 1981 indicates a clear preference for the United States. Clearance is granted.

STATEMENT OF THE CASE

On October 21, 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 November 26, 2003. The case was assigned to the undersigned on June 29, 2004. A Notice of Hearing was issued on July 8, 2004, and the hearing was held on August 4, 2004. The transcript was received on August 23, 2004.

FINDINGS OF FACT

Applicant is a 43 year old Engineer.

Applicant was born and raised in Lebanon. In 1981, he left Lebanon and moved to the United States to continue his education. He has lived here since then. In 1997, he became a United States citizen. By letter dated April 2004, the local Lebanese Consulate confirmed that applicant had submitted a request to relinquish his Lebanese citizenship, and had surrendered his Lebanese passport.

Applicant's mother is a United States citizen who lives in Lebanon. Applicant's brother is a citizen and resident of Lebanon. Applicant's brother's wife and two children are United States citizens. The brother and his family live with applicant's mother in Lebanon. None of these family members has a connection to the Lebanese government or military. Applicant calls his mother two to three times a month. If the brother happens to answer the phone, applicant speaks to him. Applicant has visited these family members in Lebanon in 1996, 1999, 2000, 2001, and 2003.

Applicant's sister is a citizen and resident of the United States. Applicant has a cousin who is a naturalized United States citizen currently living in Lebanon. These individuals do not raise a security concern.

Applicant considers himself to be "blessed" to be an American citizen (TR at 24). He has no plans to return to Lebanon. The United States is his permanent home. His entire allegiance is with the United States (TR at 24).

Letters from four of applicant's coworkers, including his immediate supervisor, were admitted into evidence (Exhibits A, B, C and D). All four colleagues speak highly of applicant's reliable and trustworthy, and three of them expressly state that if he were approached by a foreign government to do something improper, they are confident he would notify his employer's security department.

CONCLUSIONS

With respect to Guideline B, the evidence establishes that applicant's mother is a resident of Lebanon and that his brother is a citizen and resident of Lebanon. 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*).

Based on the evidence presented, I conclude that these immediate family members are not agents of Lebanon, or in a position to be exploited by Lebanon in a way that could force applicant to choose between loyalty to these immediate family members and loyalty to the United States. I further conclude that applicant is a reliable and trustworthy individual who is loyal to the United States, and that in the unlikely event pressure was exerted upon him to compromise classified information, he would resist it, and would report the incident to the proper authorities. Based on the foregoing, 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 evidence establishes that until recently, applicant (1) was a citizen of both Lebanon and the United States, and (2) possessed a Lebanese passport. These facts require applicant of Disqualifying Conditions E2.A3.1.2.1 (*the exercise of dual citizenship*), and E2.A3.1.2.2 (*possession and/or use of a foreign passport*).

Turning to the issue of mitigation, since moving to the United States in 1981, applicant's conduct has indicated a clear preference for the United States. When he became aware that dual citizenship is considered a significant security concern, and that the possession of a foreign passport is an automatic bar to holding a security clearance, he initiated the process of formally renouncing his Lebanese citizenship, and surrendered his Lebanese passport to the Lebanese authorities. Applicant qualifies for Mitigating Conditions E2.A3.1.3.1 (*dual citizenship is based solely on birth in a foreign country*), and E2.A3.1.3.4 (*individual has expressed a willingness to renounce dual citizenship*). Given these Mitigating Conditions, and the fact applicant satisfied the security concern raised by his possession of the Lebanese passport by surrendering it to Lebanese authorities, Guideline C is found for applicant.

FORMAL FINDINGS

GUIDELINE B: FOR THE APPLICANT

All subparagraphs found for 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