

DATE: December 30, 2003

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 02-31663

## **DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Melvin A. Howry, Department Counsel

#### **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant's wife and stepson are citizens of Thailand living with applicant in the United States. Neither these immediate family members nor applicant's in-laws living in Thailand raise a significant security concern under Guideline B. Clearance is granted.

### **STATEMENT OF THE CASE**

On March 3, 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 writing on March 31, 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 July 21, 2003. Applicant responded to the FORM on August 21, 2003. The case was assigned to me on September 9, 2003.

### **FINDINGS OF FACT**

Applicant is a 40 year old employee of a defense contractor.

Applicant was born in the United States. In 1995, he married a citizen of Thailand. They live in the United States with the wife's 18 year old son. At the present time, both the wife and son, who have Permanent Residence Status in the United states, are citizens of Thailand. The wife has no interest in becoming a United States citizen.

Applicant's wife's parents are citizens of Thailand currently living in Thailand. They are retired rice farmers. Applicant's wife has five brothers, all of whom are citizens and residents of Thailand. Two of the brothers are Thai policemen.

Except for the two policemen, none of these family members is connected to the government of Thailand.

Applicant visits his wife's family in Thailand every three to four years. His last trip took place in August 2001.

## **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:

E2.A2.1.2.1: An immediate family member is a citizen or resident of a foreign country.

E2.A2.1.2.3: Relatives who are connected to any foreign government.

#### Conditions that could mitigate security concerns:

E2.A2.1.3.1: 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.

E2.A2.1.3.3: Contacts with foreign citizens (relatives living in Thailand) are casual and infrequent.

## **CONCLUSIONS**

With respect to applicant's immediate family members (his wife and stepson), I conclude that they are not agents of Thailand, or in a position to be exploited by Thailand in a way that could force applicant to choose between loyalty to them and loyalty to the United States. [\(1\)](#)

With respect to applicant's parents-in-law and bothers-in-law, all of whom are citizens and residents of Thailand, there is no evidence that applicant has close ties of affection or obligation to any of them. In addition, although two of applicant's brothers-in-law are Thai policemen, it is highly unlikely that Thailand would risk its close relationship with the United States by exploiting/threatening its private citizens for the purpose of forcing a United States citizen to betray the United States. Based on these facts, Guideline B is found for applicant.

## **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.