

DATE: May 13, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-14562

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Jennifer I. Campbell, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's daughter is a citizen and resident of Russia. Mitigating Condition 1 does not apply. Clearance is denied.

STATEMENT OF THE CASE

On August 22, 2002, 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 September 4, 2002, 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 September 30, 2002. Applicant did not reply to the FORM. The case was assigned to me on December 10, 2002.

FINDINGS OF FACT

Applicant is 75 years of age.

Applicant was born, raised and educated in Russia. He served in the Soviet Navy as an Engineering Officer for four years in the 1950s. Following that service, he worked for 25 years at a Soviet company in Leningrad. In 1980, he and his Russian born wife moved to the United States. They became United States citizens in 1986.

Applicant's daughter (from a previous marriage) and granddaughter are citizens and residents of Russia. Applicant maintains monthly phone and letter contact with his daughter. Applicant traveled to Russia in 1988 and 1996 to visit his daughter. Applicant has two old friends in Russia. He and these two friends were coworkers at the Leningrad company. Applicant exchanges letters with both of them once or twice a year. Both visited applicant in the United States more

than five years ago.

Applicant has a cousin who is a citizen of the Ukraine and lives in Germany. Applicant communicates with him by telephone once a month.

In a signed, sworn statement that he gave to the Defense Security Service (DSS) in April 2002, applicant stated the following:

I have no reason to believe that any of my friends or family members who are not US citizens have ever been involved with any foreign intelligence services or have ever engaged in any activities inimical to the interests of the US. During my foreign travel I have not encountered or met with anyone who I have suspected were involved in such activities.

I do not believe that I am subject to any forms of coercion, influence, or pressure, which could cause me to act against the best interests of the US. If I were to be approached in any manner, I would be firm in my resistance to any overtures and would report the situation to the responsible authorities.

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.

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.

Conditions that could mitigate security concerns:

E2.A2.1.3.3: Contact and correspondence with foreign citizens are casual and infrequent (friends/ former coworkers only).

CONCLUSIONS

Neither the fact applicant has two old friends in Russia with whom he maintains infrequent contact, nor the fact he has a cousin who is a Ukrainian citizen living in Germany, raise a significant security concern. However, the fact that applicant's daughter and granddaughter are citizens and residents of Russia does raise a significant security concern.

Although Russia is not as hostile to United States interests as the old Soviet Union was, it cannot be considered a "friendly" country, particularly in the context of intelligence gathering. It is a known fact that Russia operates an aggressive intelligence service that actively seeks access to United States secrets. Given these facts, applicant has a heavy burden to show that (1) his family ties with relatives living in Russia do not pose a security risk and (2) Foreign Influence mitigating Condition 1 applies to this case. ISCR Case No. 01-26893 (October 16, 2002) at page 8.

Applicant failed to meet his burden. The evidence simply does not support the affirmative findings that applicant's

daughter is not an agent of Russia or that she is not in a position to be exploited by Russia in a way that could force applicant to choose between loyalty to his daughter and loyalty to the United States. [\(1\)](#) Accordingly, Foreign Influence Mitigating Condition 1 does not apply to this case. Based on the foregoing, Guideline B is found against applicant.

FORMAL FINDINGS

GUIDELINE B: 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. I have considered applicant's written statements that he would resist any attempt to pressure or coerce him, and that he would report such an attempt to the appropriate authorities. These statements, regardless of how sincere they may be, are not entitled to much weight. ISCR Case No. 00-0484 (February 1, 2002) at page 6.