

KEYWORD: Foreign Influence

DIGEST: Although Applicant's mother and six brothers and sisters are resident citizens of Taiwan, the foreign influence concerns are mitigated as none of her immediate family members are agents of a foreign power or in a position to be exploited in a manner that would force Applicant to choose between the family member and the U.S. The temporary Taiwan employment in 1992 was primarily for academic reasons with the findings turned over to the Taiwanese science foundation. The potential foreign influence problems raised by Applicant's four trips to Taiwan in the last eight years and her regular telephone contacts with her mother are assuaged by Applicant's cognizance of security concerns associated with foreign ties/contacts. She understands her security obligation to resist and report exploitative contacts. The bank account established for Applicant's mother does not constitute a substantial interest in Taiwan nor could it make Applicant vulnerable to foreign influence or affect her security responsibilities. Clearance is granted.

CASENO: 02-24475.h1

DATE: 04/25/2005

DATE: April 25, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-24475

DECISION OF ADMINISTRATIVE JUDGE

PAUL J. MASON

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Although Applicant's mother and six brothers and sisters are resident citizens of Taiwan, the foreign influence concerns are mitigated as none of her immediate family members are agents of a foreign power or in a position to be exploited in a manner that would force Applicant to choose between the family member and the U.S. The temporary Taiwan employment in 1992 was primarily for academic reasons with the findings turned over to the Taiwanese science foundation. The potential foreign influence problems raised by Applicant's four trips to Taiwan in the last eight years and her regular telephone contacts with her mother are assuaged by Applicant's cognizance of security concerns associated with foreign ties/contacts. She understands her security obligation to resist and report exploitative contacts. The bank account established for Applicant's mother does not constitute a substantial interest in Taiwan nor could it make Applicant vulnerable to foreign influence or affect her security responsibilities. Clearance is granted.

STATEMENT OF CASE

On May 19, 2004, the Defense Office of Hearings and Appeals (DOHA), pursuant to Department of Defense Directive 5220.6, dated January 2, 1992, as reissued through Change 4 thereto, dated April 20, 1999, issued an SOR to the 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. DOHA recommended referral to an Administrative Judge to conduct proceedings and determine whether clearance should be granted, continued, denied or revoked. On June 3, 2004, Applicant responded to the SOR and requested a hearing before an Administrative Judge.

The case was transferred to me on November 1, 2004 for administrative reasons. On November 24, 2004, this case was set for hearing on December 13, 2004. The Government submitted one exhibit and Applicant submitted three exhibits comprising of character statements, financial statements and a certificate of naturalization. Testimony was taken from Applicant and her husband. The transcript (Tr.) was received on December 21, 2004. [\(1\)](#)

At the request of the Government, I have taken official notice of *United States v. Pin Yen Yang, et al.*, 2002 FED App. 0062P (6th Cir., 2002), Annual Report to Congress, 2000, United States Department of State, "Background Note: Taiwan," September 2004, United States Department of State Consular Information Sheet - Taiwan, United States Department of State "Independent States in the World," February 27, 2004, and United States Department of State Report on Human Rights, February 25, 2004.

FINDINGS OF FACT

The SOR alleges foreign influence (Guideline B). Applicant admitted all factual allegations. Her admissions shall be incorporated in the following Findings of Fact. Applicant is 42 years old and has been employed by her current employer (defense contractor) for approximately five years. She began her employment as a department manager and was recently promoted to technical director of transformation programs. (Tr. 36) Applicant has held an interim security clearance between May 2001 and June 2004. (Tr. 36; AE A)

Applicant was born in Taiwan on July 9, 1962. In 1980 Applicant received her bachelor's degree in atmospheric physics and first master's degree (atmospheric science) in 1986 at the National Taiwan University. Applicant immigrated to the United States in 1987 to obtain a Ph.D. in atmospheric science. She also met her husband (a U.S. citizen employed by the U.S. Air Force) who was also pursuing an advanced degree in the atmospheric science field. After a couple years of courtship, the two were married in 1989.

During the next 15 years, Applicant's husband was stationed at five different duty locations before settling in the present region about six years ago. While her husband was stationed in Saudi Arabia during the Middle East conflict in 1992, Applicant served for approximately four months as an advisor on an environmental project for the Taiwanese Environmental Protection Agency. Because of her scholastic reputation at the National Taiwan University (Tr. 30), Applicant was asked to participate in a project of researching air pollution in Taiwan. She submitted her pollution analysis to the National Taiwan University who then turned the results over to the Taiwan National Science Foundation. (Tr. 29-32; GE 1)

In March 1994, Applicant received her U.S. citizenship. (AE C) While her husband was on temporary duty in Hawaii in the middle 1990s, Applicant received her second master's degree in information systems. (GE 1; Tr. 46)

Applicant's mother, a resident citizen of Taiwan who is 79 years old and retired, has never worked outside the home.

(Tr. 21) Conforming to a Taiwanese tradition, she lives with her eldest son (Applicant's oldest brother) who provides 100 % of her support while the Taiwanese government provides her health care. Applicant contacts her mother about once a week by telephone.

None of Applicant's six brothers and sisters (resident citizens of Taiwan) are involved in any of the country's political activities or agents of a foreign power. Her oldest brother (her mother's oldest son) who provides care for her mother, is approximately 57 years old having retired from his thriving architectural position as the general manager of a private construction company. (Tr. 22) Applicant's oldest sister is a 61-year-old housewife who also lives with her oldest son. Applicant's second sister is a married housewife with two children. Applicant's third sister is a married housewife with one daughter; she works with her husband in the production of garage doors. Applicant's second brother, divorced, works for a commercial information systems company. Applicant's fourth sister is a chief information officer for a department store in Taiwan while her husband is an information officer for a hospital. The fourth sister and her husband are raising one junior-highschool-age daughter.

Applicant traveled with her family for pleasure reasons to Taiwan in 1996, 1998, 1999, and also in 2004. ⁽²⁾ She has always traveled to Taiwan so her two children can interface with her mother, brothers and sisters (Tr. 28; 63) and practice conversing in the native language.

After Applicant's husband was promoted in 1992, they decided to establish a bank account in Taiwan for her mother as a symbolic gesture of Applicant's love and admiration. Both Applicant and her husband view the account as a safety valve should her mother suddenly need emergency funds. (Tr. 34) There are no plans to use the contents of the account (approximately \$9,000.00) for any other purpose. (Tr. 65) Except for her mother's bank account (that is not included in Applicant's net worth), Applicant has no financial interests anywhere but in the U.S. Applicant and her husband have a combined yearly income of more than \$300,000.00 and a net worth of over \$1,500,000.00. (AE B) Therefore, the account is a small fraction of their net worth.

Applicant's husband believes Applicant is careful about security issues (Tr. 61-63) and would respond in the same manner he would and inform her security office if anyone were to approach her. (Tr.73)

Applicant's first character witness wrote a character statement describing his knowledge of Applicant. He met Applicant in 1989 when her husband worked with him in Guam as a weather officer. Even though he had no professional contact with Applicant, he found her to be a close friend of sound character.

The security office for Applicant's current employer indicated Applicant committed no security violations in the three year period she held an interim security clearance. Applicant's coworker for the past two years has admired Applicant's professionalism as exemplified by the trustworthiness and dedication she has always brought to each project.

Applicant's former professor recalled by character statement that Applicant took four classes from him in the middle 1990s. According to her former professor, Applicant developed highly successful technical tools and innovative teaching techniques in the graduate program.

The current Air Force weather field manager has known Applicant since 1991 and considers her a very intelligent, professional person who also provides a wholesome environment for her children. Three other friends who have worked with Applicant over the last 15 years are unanimous in their belief she warrants a position of trust.

POLICIES

As set forth in the Directive, each personnel security decision must be based on the guidelines, the whole person concept and commonsense.

Burden of Proof

The Government has the burden of proving controverted facts by substantial evidence. After the Government meets its burden, an applicant has the ultimate burden of presenting evidence in refutation, extenuation, or mitigation that demonstrates it is clearly consistent with the national interest to grant or continue his or her security clearance. Any doubt concerning an applicant's security clearance access should be resolved in favor of national security. *Department of Navy, v. Egan*, 484 U.S. 518, at 531.

Foreign Influence

Security concerns may exist when an individual's immediate family, including cohabitants, and other persons to whom her or she may be bound by affection, influence, or obligation are not

citizens of the U.S. or may be subject to duress. These situations could create the potential for foreign influence that

could result in the compromise of classified information.

CONCLUSIONS

Under the foreign influence guideline, a security concern may exist when an individual's immediate family or persons she may be bound by affection, influence, or obligation, are not citizens of the U.S., or may be subject to duress. Contacts with citizens of other countries or financial interests in other countries are relevant in security determinations if they make the individual vulnerable to pressure. The Government has established a *prima facie* case under disqualifying condition (DC) 1 of the foreign influence guideline because Applicant's mother and six siblings are resident citizens of Taiwan. (E2.A2.1.2.1., *an immediate family member, or person to whom the individual has close ties of affection and obligation, is a citizen of, or resident or present in, a foreign country.*) Furthermore, Applicant's regular contacts with her mother, her advisory position in 1992 and her three trips to Taiwan (plus an admitted, but unalleged, fourth trip in 2004) infuse greater potential security concerns under the foreign influence guideline because of increased opportunities for vulnerability to coercion or pressure. Finally, under DC 8 (E2.A2.1.2.8., *a substantial financial interest in a country, or in any foreign-owned or operated business that could make the individual vulnerable to foreign influence*), the bank account established by Applicant and her husband in 1992 may make Applicant vulnerable to foreign influence.

In assessing whether an applicant is vulnerable to pressure through family members who are resident citizens or simply residents of a foreign country, the ideological and political history of the foreign country at issue should be evaluated. While Taiwan has a history of engaging in industrial espionage and clandestine gathering of proprietary information, the country has an evolving democratic system of government that is reducing restrictions on the press and personal freedoms. Taiwan is considered an ally of the U.S. Though the potential for Applicant to be vulnerable to pressure and exploitation cannot be eliminated, the potential is dramatically reduced by the lack of terrorism in Taiwan and the dramatic measures taken to improve respect for human rights.

The potential for vulnerability is even less because none of Applicant's immediate family members are affiliated with political parties or agents of a foreign power as delineated in mitigating condition (MC) 1 of the foreign influence guideline. (E2.A2.1.3.1., *a determination that the immediate family member(s), (spouse, father, mother, sons, daughters, brothers, sisters), cohabitant, or associate(s) in question are agents of a foreign power or in a position to be exploited by as foreign power in a way that could force the individual to choose between loyalty to the person(s) involved and the U.S.*) Applicant's mother is 79 years old and has been a housewife all her life. Applicant's oldest brother, once a prosperous architect for a private company now retired, provides 100 % of her support except for her medical needs that are serviced by the nationwide medical system. There is no evidence Applicant's other siblings are in a position to be exploited by a foreign power in a way that could force Applicant to choose between loyalty to the sibling and the U.S.

Having found that MC 1 weighs in Applicant's favor, the fact that she regularly contacts her mother once a week by telephone does not raise security concerns under the foreign guideline. Nor do the four pleasure trips to Taiwan in 1996, 1998, 1999, and 2004. Both Applicant and her husband credibly testified that the trips were opportunities for Applicant

to bring her children to (1) see Applicant's mother and other members of the family, (2) see the culture, and (3) practice their Chinese. In sum, Applicant's regular contacts with her mother and four pleasure trips are mitigated by MC 1.

For a period of approximately four months in 1992, Appellant served as an advisor to the Taiwanese Environmental Protection Agency. She credibly testified why she was selected, why she decided to participate and what her role was in the project. There is no evidence inferring or suggesting she was involved in any kind of illegal activity. The only information she was gathering was related to air pollution. The information was ultimately turned over to a global science organization whose objective is to promote scientific projects dealing with health. There is no information Applicant has ever participated in this kind of activity since 1992. Applicant was awarded her U.S. citizenship in 1994, and during her husband's duty assignment in Hawaii in January 1997, Applicant received her master's degree in information systems and has been employed in that field since.

Applicant and her husband established the bank account in 1992 so her mother could have immediate access to funds for emergency purposes. While the bank account is a potential factor that could make Appellant vulnerable to foreign influence, the size of the account can hardly be considered to be a substantial financial interest. The \$9,000.00 bank account is miniscule in comparison to Applicant's combined income of \$300,000.00 and net worth of \$1,500,000.00, which is likely to increase in the future. Considering all the evidence on the bank account, this single foreign asset is too small to affect Applicant's security responsibilities set forth in MC 5. (E2.A2.1.3.5., *foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities.*)

Having weighed and balanced all the evidence, including the official notice information regarding the improving human rights practices of the Taiwanese government, Applicant's good job performance and security conscientiousness, and the whole person concept, subparagraphs 1.a. through 1.f. are resolved in her favor. Applicant has successfully demonstrated she will resist and report any foreign pressure or influence by either coercive or non-coercive means.

FORMAL FINDINGS

Paragraph 1 (foreign influence, Guideline B): FOR THE APPLICANT.

- a. For the Applicant.
- b. For the Applicant.
- c. For the Applicant.

d. For the Applicant.

e. For the Applicant.

f. 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.

Paul J. Mason

Administrative Judge

1. The government exhibits shall be marked as "GE" followed by the number of the exhibit. Applicant's exhibits shall be marked as "AE" followed by the letter of the exhibit.
2. Applicant 's trip to Taiwan in 2004 is not alleged in the SOR. (Tr. 28)