

KEYWORD: Foreign Influence; Foreign Preference

DIGEST: Applicant has no immediate family members living in Israel. He renounced his Israeli citizenship. Clearance is granted.

CASENO: 03-20264.h1

DATE: 02/15/2005

DATE: February 15, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-20264

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Edward W. Loughran, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has no immediate family members living in Israel. He renounced his Israeli citizenship. Clearance is granted.

STATEMENT OF THE CASE

On July 9, 2004, 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 August 2, 2004. The case was assigned to the undersigned on September 7, 2004. A Notice of Hearing was issued on January 10, 2005, and the hearing was held on February 2, 2005. The transcript was received on February 10, 2005.

FINDINGS OF FACT

Applicant is 32 years of age. He has been employed with the same defense contractor since 2001.

Applicant was born in Israel. In 1995, he moved to the United States with his then-girlfriend. They were married in the United States later that year. In 1999, applicant became a United States citizen. He formally renounced his Israeli citizenship in 2002 (Exhibit 4). His wife is still a citizen of Israel. She has, however, applied to become a United States citizen. They have one child who was born in the United States. Applicant testified that the United States is their home and they intend to remain here permanently.

Applicant's parents are residents and citizens of the United States. They are also citizens of Israel. They came to the United States in the early 1990s, and intend to remain here permanently. Applicant's two siblings are also dual citizens of Israel and the United States. They reside in the United States, and intend to remain here.

Applicant's wife's parents are citizens and residents of Israel. Applicant has no contacts or ties with them.

Applicant's uncle is a citizen and resident of Israel. This uncle is a retired senior officer in the Israeli Defense Forces. Applicant has little to no contact with him (TR at 35-36). Applicant has three aunts and other distant relatives who are residents and citizens of Israel. His contacts with these individuals are infrequent.

Applicant maintains casual contact with two friends who are citizens and residents of Israel. Neither friend works for the Israeli government.

Since he moved to the United States, applicant visited Israel four times. His first trip back to Israel was in 1996. Since at the time his sole citizenship was Israeli, he had no choice but to use his Israeli passport. His second trip occurred in 2001. Since he was a dual citizen at the time, theoretically he could have used either passport. However, since he was still an Israeli citizen, Israel required him to use his Israeli passport to enter and exit Israel. His last two trips occurred after he formally renounced his Israeli citizenship and surrendered his Israeli passport. Accordingly, he used his United States passport on these two trips.

Applicant attended a Naval Academy in Israel. Most, but not all, of its graduates moved on to the Israeli navy upon graduation. Applicant did not. Instead, he served his three years of mandatory military service in the Israeli air force. This service ended in 1993. His father, sister and wife also served in the Israeli military.

Applicant's supervisor appeared at the hearing and testified that applicant is reliable and trustworthy, and a loyal American.

CONCLUSIONS

With respect to Guideline B, the evidence establishes that applicant's wife, parents, and two siblings are citizens of Israel. This fact requires 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 none of these immediate family members is an agent of Israel. I further conclude that none of these immediate family members, all of whom currently reside in the United States and intend to remain here permanently, is in a position to be exploited by Israel in a way that could force applicant to choose between loyalty to any of these immediate family members and loyalty to the United States. 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.

With respect to applicant's uncle, aunts, in-laws, other distant relatives, and his two friends, applicant's contact with them is casual and infrequent. Accordingly, Mitigating Condition E2.A2.1.3.3 (*contact and correspondence with foreign citizens are casual and infrequent*) is applicable. The fact that applicant's uncle is a retired senior officer of the Israeli Defense Forces has been carefully considered. I have concluded, however, that based on the lack of any real relationship between applicant and his uncle, and applicant's credible testimony that he would report to his security office any attempt by the uncle to obtain sensitive information from him (TR at 37-38), this fact does not render applicant an unacceptable security risk. Based on the foregoing, Guideline B is found for applicant.

With respect to Guideline C, the evidence establishes that applicant possessed and used an Israeli passport to travel to Israel in 2001. This fact requires application 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*). Applicant has mitigated these concerns by formally renouncing his Israeli citizenship and surrendering his Israeli passport. Applicant qualifies for Mitigating Conditions E2.A3.1.3.1 (*dual citizenship is based solely on birth in a foreign country*), E2.A3.1.3.4 (*individual has expressed a willingness to renounce dual citizenship*), and E2.A3.1.3.2 (*indicators of possible foreign preference (e.g., foreign military service) occurred before obtaining United States citizenship*). Given these Mitigating Conditions, and the fact that since arriving in the United States almost nine years ago, applicant has shown a clear preference for the United States, Guideline C is found for applicant.

FORMAL FINDINGS

GUIDELINE B: FOR THE APPLICANT

All subparagraphs found for applicant.

GUIDELINE C: FOR THE APPLICANT

All subparagraphs found for 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