

KEYWORD: Foreign Influence; Foreign Preference

DIGEST: Applicant's immediate family members living in Israel do not pose an unacceptable security risk. Applicant has renounced his Israeli citizenship and surrendered his Israeli passport. Clearance is granted.

CASENO: 03-16188.h1

DATE: 04/06/2005

DATE: April 6, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-16188

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Jennifer I. Campbell, Department Counsel

FOR APPLICANT

Gary R. Ricks, Esq.

SYNOPSIS

Applicant's immediate family members living in Israel do not pose an unacceptable security risk. Applicant has renounced his Israeli citizenship and surrendered his Israeli passport. Clearance is granted.

STATEMENT OF THE CASE

On May 7, 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 June 29, 2004. The case was assigned to me on August 25, 2004. A Notice of Hearing was issued on January 11, 2005, and the hearing was held on February 10, 2005. Following the hearing, applicant submitted a two page document. This document, and Department Counsel's written response indicating she has no objection to it, were marked as Exhibit Q and admitted into evidence. The transcript was received on February 22, 2005.

FINDINGS OF FACT

Applicant is 59 years of age. He has worked for the same defense contractor since 1987.

Applicant was born in Israel. In 1968, he moved to the United States with his Israeli wife. In 1979, they became United States citizens. They have two children, both of whom are United States citizens living in the United States. The two children married United States citizens. The children intend to remain in the United States. Applicant also has two grandchildren who are United States citizens living in the United States.

In 1982, after living and working in the United States for a number of years, applicant and his family moved to Israel so the two children could get to know their grandparents. Because they intended to stay in Israel "for a couple of years or so" and then return to the United States, they kept their family home and other assets in the United States (TR at 40-41). Applicant worked for a company in Israel that was 50% owned by a large United States corporation. Due to unexpected events involving the children, the family returned to the United States after about a year. Applicant continued working for the Israeli-based company until 1987. He was able to do so by commuting between Israel and the United States.

After applicant became a United States citizen, he applied for and received an Israeli passport. He did so for one reason: Israeli law required him, as an Israeli citizen, to enter and exit Israel using an Israeli passport. Since becoming a United States citizen in 1979, he has not used his Israeli passport for any other purpose.

A few years ago, applicant's Facility Security Officer (FSO) advised him that it would be best from a security standpoint if he surrendered his Israeli passport. Applicant tried to surrender it to Israeli authorities, but was unable to do so. He then surrendered it to his FSO. Subsequent to the Hearing, applicant retrieved the Israeli passport from the FSO and mailed it to the Israeli consulate with a letter stating he was surrendering the passport and would not accept it back from the Consulate. He also reminded the Consulate that he had initiated the process of renouncing his Israeli citizenship in or before October 2004. [\(U\)](#)

Applicant's 92 year old mother, brother, and sister are residents and citizens of Israel. None works for the Israeli government. He calls his mother weekly, and calls his brother and sister once every two to three weeks. When he goes to Israel on business, he usually visits these relatives.

Since he moved to the United States, applicant visited Israel many times. In the last eight years, all of his trips to Israel were business trips on behalf of his employer. All of these trips were coordinated with, and approved by, his employer's security department.

All of applicant's assets are in the United States. He intends to retire in the United States and spend the rest of his life

here.

Applicant's supervisor appeared at the hearing and testified that he has absolute trust in applicant's integrity. Letters from a number of applicant's professional colleagues were admitted into evidence. These letters establish that applicant has contributed a great deal to the security interests of the United States and that he is viewed as a man of integrity.

CONCLUSIONS

With respect to Guideline B, the evidence establishes that applicant's wife is a citizen of Israel, and his mother and two siblings are citizens and residents 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 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. 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 on numerous occasions since he became a United States citizen in 1979. 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*) and E2.A3.1.3.4 (*individual has expressed a willingness to renounce dual citizenship*). Given these Mitigating Conditions, the fact that applicant has shown a clear preference for the United States since returning to the United States over 15 years ago, and his credibly stated intention to remain in the United States with his wife, children and grandchildren for the rest of his life, 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

1. Exhibit O confirms that in or before October 2004, applicant began the formal process of renouncing his Israeli citizenship, and that the process takes approximately six months.