

KEYWORD: Foreign Influence

DIGEST: Applicant's wife is a citizen of Russia. They are in the midst of divorce proceedings, which when final, will remove the Government's concerns. Clearance is granted.

CASENO: 03-16995.h1

DATE: 01/27/2006

DATE: January 27, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 03-16995

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Ray T. Blank, Jr. Department Counsel

## **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant's wife is a citizen of Russia. They are in the midst of divorce proceedings, which when final, will remove the Government's concerns. Clearance is granted.

### **STATEMENT OF THE CASE**

On December 8, 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, 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 on March 8, 2005, 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 March 30, 2005. Applicant filed a response to the FORM on June 14, 2005. The case was assigned to me on June 30, 2005.

### **FINDINGS OF FACT**

Applicant is a 62 year old employee of a defense contractor. Since July 1996, he has resided in a foreign country (FC) while performing his duties for the defense contractor.

In October 1998, while living in the FC, applicant met a Russian citizen living and working in the FC. They married in 2000 and lived together in the FC. Late in 2000, their daughter was born. The daughter is a United States citizen.

Applicant's mother-in-law lived with applicant and his wife in the FC until August 2004, at which time the mother-in-law moved back to Russia, and applicant's wife moved to the United States. She moved to the United States because she wanted to become a United States citizen. In September 2004, applicant and the daughter traveled to the United States. Applicant moved back to the FC while the daughter remained with the mother.

In May 2005 the wife told applicant she wanted a divorce. Applicant agreed to the request, and the paperwork for the uncontested divorce has been filed with the Court. Applicant states he will have no further contact with any of his wife's family.

In 2001, applicant traveled to Russia with his wife and daughter for a two week vacation.

### CONCLUSIONS

The evidence establishes that applicant's wife is a Russian citizen. This fact requires application of Disqualifying Condition E2.A2.1.2.1 (*an immediate family member is a citizen or resident of a foreign country*).

Once the Government established that Disqualifying Condition E2.A2.1.2.1 is applicable, the burden shifted to applicant to show that Mitigating Condition E2.A2.1.3.1 (*a determination that the immediate family member(s) . . . 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*) applies to this case. Applicant met his burden. There is no evidence that applicant's wife is a Russian agent, and given the facts that the wife lives in the United States with their daughter and has applied to become a United States citizen, she is not in

much of a position to be exploited by Russia in a way that could force applicant to choose between loyalty to the wife (assuming he still has any) and loyalty to the United States.

## **FORMAL FINDINGS**

PARAGRAPH 1: 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