

KEYWORD: Foreign Influence

DIGEST: The fact that one of applicant's brothers is a citizen and resident of Iraq, and the other brother is a citizen of Iraq residing in a third country, does not leave applicant vulnerable to coercion or pressure. Clearance is granted.

CASENO: 04-00881.h1

DATE: 01/17/2006

DATE: January 17, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-00881

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Edward W. Loughran, Department Counsel

FOR APPLICANT

SYNOPSIS

The fact that one of applicant's brothers is a citizen and resident of Iraq, and the other brother is a citizen of Iraq residing in a third country, does not leave applicant vulnerable to coercion or pressure. Clearance is granted.

STATEMENT OF THE CASE

On February 24, 2005, 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 March 3, 2005. The case was assigned to the undersigned on November 10, 2005. A Notice of Hearing was issued on November 15, 2005, and the hearing was held on January 4, 2006. The transcript was received on January 12, 2006.

FINDINGS OF FACT

Applicant is a 51 year old employee of a defense contractor.

Applicant was born and raised in Iraq. He was not happy living there. In his words, "life become very, very depressing"

(TR at 46). There were two main reasons for his unhappiness: he was a member of a religious minority and he was under constant pressure to join the Baath party, something he did not want to do. In 1981, he moved to a third country, which at the time was accepting political refugees. His plan was always to move to the United States, which he did in 1982 or 1983. In 1993, he became a United States citizen (Exhibit 3).

Applicant has two brothers. He has not seen either one of them since he left Iraq in 1981. One brother is a citizen and resident of Iraq. Applicant's parents, who followed him and immigrated to the United States, sponsored this brother in an attempt to bring him to the United States. When the brother finally received instructions in 2000 to travel to a third country for interviews and medical testing, he refused. The brother, who has mental problems, was angry that it took so long for his application to immigrate to be acted upon. Applicant feels he has done everything he could legally do for this brother, and if the brother doesn't want to immigrate, that's up to him.

Applicant's second brother is also a citizen of Iraq. Applicant petitioned the United States government over ten years ago for permission to bring this brother and the brother's family to the United States. They are finally at the end of the process. The brother sold his property in Iraq last year, and he and his family are waiting in a third country for the green light to move to the United States.

Exhibits B, C, D, F, G, H, I, and J are letters and affidavits from people who have worked with and/or supervised applicant during the past few years. These letters establish that applicant is a hard working, dedicated, and trustworthy individual who has done valuable work for the United States government.

An individual who described himself as a very close friend of applicant during the past nine years appeared at the hearing and testified that applicant is a reliable, trustworthy individual who exercises good judgment. He further testified that he would trust applicant to keep the secrets of the United States.

One of applicant's closest relatives living in the United States appeared at the hearing and testified on applicant's behalf. This relative, a naturalized United States citizen who has worked for the United States government since at least 1986, testified that she has known applicant since he was a baby in Iraq. She further testified that applicant is reliable and trustworthy, and that she would trust him to keep the secrets of the United States.

CONCLUSIONS

The evidence establishes that applicant's two brothers are citizens of Iraq, and that one brother still resides there. These facts require 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 applicant's brothers are not agents of Iraq, or in a position to be exploited by Iraq in a way that could force applicant to choose between loyalty to them and loyalty to the United States. I further conclude that applicant is a reliable and trustworthy individual who is loyal to the United States, and that in the unlikely event pressure was exerted upon him to compromise classified information, he would resist it, and would report the incident to the proper authorities. 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, and Guideline B is found for applicant.

FORMAL FINDINGS

GUIDELINE B: 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.

Joseph Testan

Administrative Judge