KEYWORD: Foreign Preference; Foreign Influence

DIGEST: Twenty-seven year old Applicant, born in the U.S. to Spanish citizens residing in the U.S. where his father was initially a student and his mother (now a naturalized U.S. citizen) was employed as an housekeeper, returned to Spain as a child with his family where he resided until he returned to the U.S. in 1998 to attend college. His two siblings are U.S. citizens. None of Applicant's immediate or extended family members, or friends, are associated with the Spanish government or any intelligence services or organizations. Considering the nature of the government in Spain--a NATO ally, not known to conduct economic espionage or intelligence operations against the U.S. --Applicant's immediate family does not constitute an unacceptable security risk. The government's security concerns have been mitigated. Clearance is granted.

CASENO: 04-04376.h1

DATE: 04/14/2006

DATE: April 14, 2006

In re:

SSN: ----------

Applicant for Security Clearance

ISCR Case No. 04-04376

DECISION OF ADMINISTRATIVE JUDGE

ROBERT ROBINSON GALES

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esquire, Deputy Chief Department Counsel

FOR APPLICANT

Mark E. Pelosky, Esquire

SYNOPSIS

Twenty-seven year old Applicant, born in the U.S. to Spanish citizens residing in the U.S. where his father was initially a student and his mother (now a naturalized U.S. citizen) was employed as an housekeeper, returned to Spain as a child with his family where he resided until he returned to the U.S. in 1998 to attend college. His two siblings are U.S. citizens. None of Applicant's immediate or extended family members, or friends, are associated with the Spanish government or any intelligence services or organizations. Considering the nature of the government in Spain--a NATO ally, not known to conduct economic espionage or intelligence operations against the U.S. --Applicant's immediate family does not constitute an unacceptable security risk. The government's security concerns have been mitigated. Clearance is granted.

STATEMENT OF THE CASE

On April 11, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry,* dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. The SOR detailed reasons under Guideline C (foreign preference) and Guideline B (foreign influence) 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 a clearance should be granted, continued, denied, or revoked.

In a sworn, written statement, dated May 4, 2005, Applicant responded to the SOR allegations and requested a hearing. Department Counsel indicated the government was ready to proceed on October 26, 2005, and the case was assigned to me two days later. A notice of hearing was issued on October 28, 2005, and the hearing was held, as scheduled, on

November 16, 2005. During the hearing, three Government exhibits, 20 Applicant exhibits, and the testimony of three Applicant witnesses, including Applicant, were received. The transcript (Tr.) was received on December 1, 2005. At Applicant's request, the record was kept open until December 16, 2005, to enable Applicant to supplement the record. On December 14, 2005, Applicant submitted 11 additional exhibits, some of which were duplicate originals or translations of exhibits already in evidence. They were admitted without objection.

RULINGS ON PROCEDURE

On November 9, 2005, Applicant hired an attorney to represent him in these proceedings. That same day, Applicant's attorney spoke with Department Counsel and requested a continuance because of a previously scheduled court hearing conflicting with this DOHA hearing. No agreement could be reached and, at 1:10 a.m., November 11, 2005--a federal holiday--Applicant's attorney sent Department Counsel and me, by facsimile, the following items, all dated November 10, 2005: notice of appearance, motion to continue (for at least four weeks), an affidavit, and a request for copy of the investigative file. The submissions were received the following Monday, November 14, 2005. That same day, Department Counsel filed a brief in opposition to the motion to continue. I conducted a teleconference with both parties that same day and ruled that a continuance would be granted, but not to the extent desired. The hearing was delayed from 9:00 a.m. until 2:00 p.m., November 16, 2005, to enable Applicant's attorney to complete his other conflicting court matter.

During the hearing, Applicant's attorney restated his motions. He asked for a continuance of between four to eight weeks to obtain documents to supplement the record.[(1)] The motion for a continuance was denied,[(2)] but the record was kept open until December 16, 2005.[(3)] The discovery issue (the request for the investigative file) was resolved by both parties.

Department Counsel requested Official Notice be taken of the contents of the following documents: U. S. Department of State, Bureau of Consular Affairs, *Consular Information Sheet: Spain and Andorra*, dated August 2, 2005; and U.S. Department of State, Bureau of European and Eurasian Affairs, *Background Note: Spain*, dated August 2005. Pursuant to Rule 201, *Federal Rules of Evidence (F.R.E.)*, I took Official Notice as requested, without any objections by Applicant.

As noted above, on December 14, 2005, Applicant submitted 11 additional exhibits. In addition, he submitted a notarized affidavit prepared by his attorney which served to supply additional testimony and argument, and a modification of Applicant's earlier response to the SOR. The affidavit also contained several motions: (1) to dismiss the SOR; (2) for compensation and reimbursement "for any and all harm, pain and suffering, injury, incidental and consequential damages, including but not limited to attorneys fees, costs and expenses;" (3) to grant a security clearance "unconditionally;" and (4) for other justice. Department Counsel objected to the affidavit as the record was left open for the limited purpose of allowing Applicant to submit additional documents, primarily translations of already admitted

exhibits, not to augment his testimony. Taking each of these matters sequentially, Department Counsel's objection to the supplemented testimony is sustained; to the argument is overruled; and to the modification of the SOR response is sustained. As to Applicant's motions, and the absence of any cited authority to support those motions, all such motions are denied as this tribunal has no legal authority to grant any such motions.

FINDINGS OF FACT

Applicant admitted all of the factual allegations pertaining to foreign preference under Guideline C (subparagraphs 1.a. through 1.f.) and foreign influence under Guideline B (subparagraphs 2.a. through 2.g.). Those admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 27-year-old employee of a defense contractor and he is seeking to obtain a security clearance, the level of which has not been divulged. He has been employed by the same government contractor since September 2002,[(4)] was recently promoted, and currently serves as a software engineer II.[(5)] Supervisors, colleagues, and friends support his application and characterize him in very favorable terms. He is a responsible, honest, respectful, trustworthy, diligent, detailed, and careful engineer who exhibits good judgment.[(6)] His overall performance rating exceeded requirements.[(7)] He has never been married.[(8)]

He was born in the U.S. in 1979.[(9)] His parents, both of whom were Spanish citizens, resided in the U.S. where his father was initially a student and his mother was employed as an housekeeper. Applicant derived his Spanish citizenship from his parents' citizenship. His father, born in 1943, remains a Spanish citizen.[(10)] His mother, born in 1942, became a naturalized U.S. citizen in 1982.[(11)] Applicant has two siblings: a brother, born in 1980, in the U.S.,[(12)] and a sister, born in 1981, in Spain during a vacation visit.[(13)] In April 1983, when he was four years old, Applicant and his family moved to Spain.[(14)] Applicant's parents reside in Spain where his father is employed in the information technology department of a local bank and his mother is a homemaker.[(15)] His brother is an engineering student residing in Spain.[(16)] His sister, a graduate in hotel management, works for a hotel and resides in the United Kingdom.[(17)] An uncle, born in 1929, a naturalized U.S. citizen who is a senior religious figure, has resided in the U.S. since his early 20's.[(18)]

Applicant's girlfriend is a citizen and resident of Spain. They have been dating since December 2002.[(19)] They initially had telephone contact approximately three times per week, e-mail contact from daily to weekly, and daily text-messaging, but the frequency diminished substantially over time.[(20)] She visited him in the U.S. in 2004.[(21)] It was his intention to have her continue her studies in the U.S. and eventually get married, but they are encountering difficulties in their relationship because she has found nothing in her field of study to motivate her to come to the U.S. permanently.[(22)] [(23)]

It is Applicant's present intention either to have her come to the U.S. or they will break up. He also has several aunts, uncles, cousins, and friends, who are Spanish citizens and residents, but the frequency of his contacts is relatively infrequent and limited to his periodic visits to Spain.[24] None of Applicant's family members or friends are affiliated with the Spanish government or its intelligence service.[25]

During the summer of 1996, Applicant returned to the U.S. for a six-week vacation.[26] After completing his primary and secondary education in Spain, in June 1998, when he was 19 years old, Applicant returned for good to attend college in the U.S.[27] His college tuition and expenses were paid through U.S. grants, loans, and his parents' financial assistance.[28] The Spanish government did not furnish any financial assistance for his education.[29] He received his degree in computer engineering and electrical engineering in May 2002.[30]

Applicant had a Spanish passport at a very young age, and in 1996, he obtained a renewal of that original Spanish passport. He used it only once, in 1996.[31] It was subsequently lost, and Applicant obtained a re-issued Spanish passport in about October 2001.[32] He surrendered that passport, unused, to the Spanish Consulate in about January 2003,[33] and no longer possesses a Spanish passport.[34]

Applicant obtained a U.S. driver's license in 1997.[35] In early 1998, he obtained a Spanish driver's license.[36] The Spanish license is kept at his parents' residence in Spain.[37] A Spanish National Identification Document (DNI), attesting to the authenticity and identity of a person, is required of all Spanish citizens, 14 years old and older.[38] Applicant complied with that requirement by obtaining a DNI, which he keeps it at his parents' house.[39]

In the past, Spain had compulsory military service. In compliance with the then-existing Spanish law, Applicant applied for an extension on his compulsory military service based on his student status.[40] His request was granted, and he was transferred to the reserves, effective December 2001, where he was to remain until December 2004.[41] Sometime before to the expiration of his extension, the Spanish law was changed and he no longer has any Spanish military service obligation.[42] He registered with the U.S. Selective Service System in 1997.[43]

Applicant no longer possesses any bank accounts, investments, or property in Spain,[44] but has savings account and a 401 (k) in the U.S.[45] He currently rents his residence in the U.S. and is saving money to be able to purchase a U.S. residence.[46]

In January 2004, Applicant was interviewed by a special agent of the Defense Security Service and in a subsequent affirmed written statement stated:[47]

I consider my home to be Spain and my residence is [in the U.S.]. My sense of home has always been where my family is at which is in Spain. I have never thought about which country I hold my loyalty to as I merely comply with the laws of both countries. Overall my loyalty is to both countries, the U.S. and Spain. I am a dual citizen with the United States and Spain. At this time I am unable to decide if I would be willing to renounce my citizenship if it were a condition of me obtaining my security clearance. Renouncing my citizenship is a difficult decision due to the fact that my family is in Spain and at this time I would not want to give up my citizenship because I do not know what will happen in the future. My plan to remain is to finish my master's degree and continue working in the U.S., however it depends on my family situation in the future. In the event I have to take care of family responsibilities it may lead to me returning to Spain to live.

During the hearing in November 2005, his position was clarified slightly:[(48)]

I wouldn't change anything that is on the interview, I just want to clarify what is said over there, and I consider my home to be the place where my parents live, because I don't have a family right now, and that happens to be Spain. It could be here in the United States if my parents were living in another state, that would be the state where they live. But as of now, my home is the place where they live and I consider my residence the current place that I live.

Despite all of the above regarding home and residence, Applicant is willing to relinquish his Spanish citizenship if doing so is required to obtain a security clearance.[(49)] He has already commenced research to learn how to do so.[(50)]

Since coming back to the U.S. permanently in 1998, Applicant has returned to Spain to visit his parents twice a year during the summer and for Christmas.[(51)] He anticipates the frequency will diminish over time.[(52)]

Spain is a constitutional monarchy and parliamentary democracy established under the constitution adopted in 1978. It is a highly developed and stable democracy with a modern economy, and is a North Atlantic Treaty Organization (NATO) ally and respected member of the European Union. Spain is not known to conduct economic espionage or intelligence operations against the U.S. An estimated one million U.S. tourists have trouble-free visits to Spain each year. While the U.S. experienced terrorist attacks on September 11, 2001, Spain was also victimized by such attacks on March 11, 2004. "Spain and the U.S. are strong allies in the fight against terrorism."[(53)]

On August 16, 2000, the Assistant Secretary of Defense, Command, Control, Communications, and Intelligence (ASD/C^3I) issued a passport policy "clarification" pertaining to Adjudicative Guideline C--foreign preference. As noted

above, photocopies of the memorandum were furnished to Applicant on several occasions. The memorandum states, in pertinent part:

The purpose of this memorandum is to clarify the application of Guideline C to cases involving an applicant's possession or use of a foreign passport. The guideline specifically provides that "possession and/or use of a foreign passport" may be a disqualifying condition. It contains no mitigating factor related to the applicant's personal convenience, safety, requirements of foreign law, or the identity of the foreign country. The only applicable mitigating factor addresses the official approval of the United States Government for the possession or use. The security concerns underlying this guideline are that the possession and use of a foreign passport in preference to a U.S. passport raises doubt as to whether the person's allegiance to the United States is paramount and it could also facilitate foreign travel unverifiable by the United States. ***Therefore, consistent application of the guideline requires that any clearance be denied or revoked unless the applicant surrenders the foreign passport or obtains official approval for its use from the appropriate agency of the United States Government.*** odification of the Guideline is not required. (Emphasis supplied)

There is no evidence to indicate Applicant was furnished a copy of the ASD/C^3I memorandum. As of the date of the closing of the record herein, it appears Applicant no longer possessed a Spanish passport

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Conditions).

An administrative judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision set forth in Section E.2.2., Enclosure 2, of the Directive, are intended to assist the administrative judge in reaching fair and impartial common sense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an administrative judge should consider are: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include

knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

GUIDELINE C--FOREIGN PREFERENCE: When an individual acts in such a way as to indicate a preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States.

GUIDELINE B--FOREIGN INFLUENCE: A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are: (1) not citizens of the United States or (2) may be subject to duress. These situations could create the potential for foreign influence that could result in the compromise of classified information. Contacts with citizens of other countries or financial interests in other countries are also relevant to security determinations if they make an individual potentially vulnerable to coercion, exploitation, or pressure.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, pertaining to each of the adjudicative guidelines are set forth and discussed in the Conclusions section below.

Since the protection of the national security is the paramount consideration, the final decision in each case must be arrived at by applying the standard that the issuance of the clearance is "clearly consistent with the interests of national security"[(54)] or "clearly consistent with the national interest." For the purposes herein, despite the different language in each, I have concluded all of the standards are the same. In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences that are grounded on mere speculation or conjecture.

In the decision-making process, the burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the government's case, and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship that the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

CONCLUSIONS

Upon consideration of all the facts in evidence, an assessment of credibility, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

The government has established its case under Guideline C. Applicant is native-born U.S. citizen of then-Spanish parents who acted in such a way as to indicate a preference for a foreign country--in this instance, Spain. In doing so, he may be prone to provide information or make decisions harmful to the interests of the United States. In support of its contentions, the government has cited Applicant's active exercise of "dual citizenship" with Spain and the United States; acceptance and renewal of a Spanish passport; registration for a DNI; acquisition of a Spanish driver's license; application for a deferment from Spanish military service; and his declaration that Spain is his home while the U.S. is merely his residence. Applicant's actions clearly fall within foreign preference disqualifying condition (FP DC) E2.A3.1.2.1. (*the exercise of dual citizenship*), FP DC E2.A3.1.2.2. (*possession and/or use of a foreign passport*), and E2.A3.1.2.3. (*military service or a willingness to bear arms for a foreign country*).

As noted above, in August 2000, ASD/C^3I issued a passport policy "clarification." Under that policy "clarification," it is clear the possession and use of the Spanish passport falls within FP DC E2.A3.1.2.2. The ASD/C^3I memo states there are no mitigating factors "related to an applicant's personal convenience, safety, requirements of foreign law, or the identity of the foreign country," a phrase which I construe to relate solely to the use of a foreign passport, and not to mere possession of same. On the other hand, the memo requires a clearance be denied or revoked unless the applicant surrenders the foreign passport or obtains official approval for its use from the appropriate agency of the United States Government." In this instance, it is of substantial significance that he surrendered the Spanish passport in January 2003--over two years before the issuance of the SOR.

Applicant's Spanish citizenship was derived from his parents, both of whom were Spanish citizens at the time of his birth in the U.S. That fact brings this matter within Foreign Preference Mitigating Condition (FP MC E2.A3.1.3.1. (*dual citizenship is based solely on parents' citizenship or birth in a foreign country*).

When Applicant applied to the Spanish Ministry of Defense for an extension on his compulsory military service based on his student status, a request which was approved, and he was transferred to the reserves, he did not actually have any military service, for it was his desire to avoid it. Likewise, his compliance with Spanish law in obtaining the mandatory DNI should not be seen as a foreign preference but rather compliance with the laws of Spain. Obviously, under the whole person concept, the circumstances surrounding such conduct, the voluntariness of participation, and the motivation for the conduct are all significant factors to be considered. As to the military service issue, there was no such service, and since compulsory military service in Spain is no longer required, the likelihood of such future service is nil.

Applicant's possession of a foreign driver's license should not be construed as a preference for Spain but simply the realization that such a license is required of drivers in Spain. Most U.S. citizens who expect to drive in Spain usually acquire an International Drivers License, but in Applicant's case, as a Spanish citizen he is required to comply with the laws as they pertain to Spanish citizens.

This case is not to be construed as an assault on dual citizenship, for the issue is not that Applicant is a dual citizen, but rather his previous possession and one-time use of that foreign passport and other possible indicators of such a preference. In addressing his future, as noted above, Applicant indicated a willingness to relinquish his Spanish citizenship, thus justifying the application of FP MC E2.A3.1.3.4. (*individual has expressed a willingness to renounce dual citizenship*).

In matters such as these, it is best not to get too tied up in semantics. Applicant's choice of descriptions of "home" versus "residence" are too simplistic to be given the significance attributed them by the government. In light of the evidence presented, I conclude Applicant has, through evidence of extenuation and explanation, successfully mitigated and overcome the government's case under Guideline C. Accordingly, allegations 1.a. through 1.f. of the SOR are concluded in favor of Applicant.

The government has established its case under Guideline B. Applicant has been portrayed as a person who is a potential security risk because members of his immediate family or persons to whom he is bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress. This situation raises the potential for vulnerability to coercion, exploitation, or pressure, and the exercise of foreign influence that could result in the compromise of classified information.

In support of its contentions, the government has cited the facts that Applicant's father, girlfriend, and some extended family members and friends are citizens of Syria, and his mother and two siblings are dual U.S./Spanish citizens. With the exception of his sister who resides in the U.K., his other identified family members reside in Spain. Those simple facts, standing alone, are sufficient to raise security concerns over the possibility of Applicant's vulnerability to coercion, exploitation, or pressure. However, the mere possession of family ties with a person in a foreign country is

not, as a matter of law, disqualifying under Guideline B.[(55)]

The language of [Guideline] B (Foreign Influence) in the Adjudicative Guidelines makes clear that the possession of such family ties *may* pose a security risk. Whether an applicant's family ties in a foreign country pose a security risk depends on a common sense evaluation of the overall facts and circumstances of those family ties. *See* ISCR Case No. 98-0419 (April 30, 1999) at p. 5.

None of Applicant's immediate or extended family members, or friends, are associated with the Spanish government or any intelligence services or organizations. His mother is a homemaker, his brother is a student, and his father and sister are employed in private non-governmental businesses or enterprises. An uncle is a naturalized U.S. citizen who has resided in the U.S. for approximately 50 years. Spain is a constitutional monarchy and parliamentary democracy. It is a NATO ally and its troops have served alongside U.S. troops, on the ground, on the war against terrorism. And it is not known to conduct economic espionage or intelligence operations against the U.S. If past experience is significant in forecasting future conduct, it appears the Spanish government is disinterested in Applicant and his family.

The residence and citizenship of Applicant's immediate family members are clearly a security concern under Foreign Influence Disqualifying Condition (FI DC) E2.A2.1.2.1. (*an immediate family member, or a person to whom the individual has close ties of affection or obligation, is a citizen of, or resident or present in, a foreign country*), but the significance of that condition in this instance is mitigated by the application of Foreign Influence Mitigating Condition (FI MC) 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 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*). Applicant's contact with his family is frequent and planned, as seen by his two trips per year to visit his family in Spain, thus negating the applicability of FI MC E2.A2.1.3.3. (*contact and correspondence with foreign citizens are casual and infrequent*).

Applicant's interests in the U.S. are moderate and he owns no property overseas. His bank accounts and retirement accounts are in the U.S. These facts fall within FI MC E2.A2.1.3.5. (*foreign financial interests are minimal and not sufficient to affect the individual's security responsibilities*).

Based on the evidence, I conclude the security concerns manifested by the government, in this instance, are largely unfounded. Considering the nature of the government in Spain, I find that Applicant's immediate family, notwithstanding their citizenship and residency status, do not constitute an unacceptable security risk. Their continuing personal relationship is viewed in positive terms, having no security significance. Thus, in light of the evidence presented, I conclude Applicant has, through evidence of extenuation and explanation, successfully mitigated and overcome the government's case under Guideline B. Accordingly, allegations 2.a. through 2.g. of the SOR are concluded in favor of Applicant.

For the reasons stated, I conclude Applicant is suitable for access to classified information.

FORMAL FINDINGS

Formal Findings For or Against Applicant on the allegations set forth in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive, are:

Paragraph 1., Guideline C: FOR APPLICANT

Subparagraph 1.a.: For Applicant

Subparagraph 1.b.: For Applicant

Subparagraph 1.c.: For Applicant

Subparagraph 1.d.: For Applicant

Subparagraph 1.e.: For Applicant

Subparagraph 1.f.: For Applicant

Paragraph 2., Guideline B: FOR APPLICANT

Subparagraph 2.a.: For Applicant

Subparagraph 2.b.: For Applicant

Subparagraph 2.c.: For Applicant

Subparagraph 2.d.: For Applicant

Subparagraph 2.e.: For Applicant

Subparagraph 2.f.: For Applicant

Subparagraph 2.g.: 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. Clearance is granted.

Robert Robinson Gales

Chief Administrative Judge

1. Tr. at 10-11, 20-21.

2. Tr. at 30.

3. Tr. at 202-203.

4. Government Exhibit 1 (Security Clearance Application, dated January 29, 2003) at 4.

5. Tr. at 55.

6. Applicant Exhibit Q (Letter of Reference, dated November 15, 2005) at 2; Applicant Exhibit R (Letter of Reference, dated November 11, 2005); Applicant Exhibit T (Letter of Reference, dated November 15, 2005); Tr. at 89-95, 170-177.

7. Applicant Exhibit C (Performance and Development Summary, dated February 7, 2005) at 1.

8. Government Exhibit 1, *supra* note 4, at 5.

9. Applicant Exhibit A (Certificate of Birth, dated January 24, 1979).

10. Government Exhibit 2 (Statement, dated January 23, 2004) at 5.

11. *Id*.

12. Government Exhibit 1, *supra* note 4, at 6.

13. Government Exhibit 2, *supra* note 10, at 6; Tr. at 149

14. Tr. at 44.

15. Government Exhibit 2, *supra* note 10, at 5. Applicant referred to his mother as a "housekeeper," but described her duties as staying home and taking care of the family. That description would seem to be consistent with the description of a "homemaker" or "housewife," rather than a commercial "housekeeper." *See* Tr. at 119.

16. Tr. at 121.

17. Tr. at 125.

18. Tr. at 126.

19. Government Exhibit 2, *supra* note 10, at 6.

20. *Id*.; Tr. at 127.

21. Tr. at 128.

22. Tr. at 128.

23. Tr. at 128.

24. Tr. at 128-129.

25. Tr. at 129.

26. Tr. at 46-47.

27. Tr. at 45-46.

28. Tr. at 53-54, 160.

29. Tr. at 50.

30. Applicant Exhibit B (Letter of Completion, dated November 15, 2005).

31. Tr. at 155.

32. Response to SOR, dated May 4, 2005, at 1.

33. *Id.*; Tr. at 78; Applicant Exhibit L (Letter from Spanish Foreign Ministry Consulate General, dated January 23, 2003)..

34. Tr. at 156.

35. Government Exhibit 2, *supra* note 10, at 4.

36. *Id.*

37. *Id.*

38. Response to SOR, *supra* note 32, at 1; Applicant Exhibit M (Letter from Consulate General, dated November 14, 2005).

39. Tr. at 82.

40. Tr. at 106-107.

41. Applicant Exhibit P (Letter fro the Spanish Ministry of Defense, dated January 30, 2002).

42. Tr. at 107.

43. Applicant Exhibit N (Selective Service System On-line Verification, dated June 12, 1997); Applicant Exhibit O (Letter from Selective Service System, dated June 12, 1997).

44. Tr. at 64-65; Applicant Exhibit G (Letter from Bank, undated), indicating Applicant's Spanish bank account was closed in January 2003.

45. Tr. at 63-64.

46. Tr. at 61.

47. Government Exhibit 2, supra note 10, at 2-3.

48. *Id*. at 116-117.

49. Tr. at 81.

50. Tr. at 81-82.

51. Tr. at 153-154; Government Exhibit 2, *supra* note 10, at 7; Government Exhibit 3 (U.S. Passport, issued January 20, 1979), at 5-8, reflecting entries and departures.

52. Tr. at 153-154.

53. U. S. Department of State, Bureau of Consular Affairs, *Consular Information Sheet: Spain and Andorra*, dated August 2, 2005; and U.S. Department of State, Bureau of European and Eurasian Affairs, *Background Note: Spain*, dated August 2005.

54. The Directive, as amended by Change 4, dated April 20, 1999, uses "clearly consistent with the national interest" (Sec. 2.3.; Sec. 2.5.3.; Sec. 3..2.; and Sec. 4.2.; Enclosure 3, Sec. E3.1.1.; Sec. E3.1.2.; Sec. E3.1.25.); Sec. E3.1.26.; and Sec. E3.1.27.), "clearly consistent with the interests of national security" (Enclosure 2, Sec. E2.2.3.); and "clearly consistent with national security" (Enclosure 2, Sec. E2.2.2.).

55. ISCR Case No. 98-0507 (Appeal Board Decision and Reversal Order, May 17, 1999), at 10.