

KEYWORD: Foreign Influence

DIGEST: Applicant's husband is a citizen of Iran living in the United States. His parents reside half of each year in the United States and the other half of the year in Iran. Clearance is denied.

CASENO: 04-04574.h1

DATE: 08/10/2005

DATE: August 10, 2005

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 04-04574

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Edward W. Loughran, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant's husband is a citizen of Iran living in the United States. His parents reside half of each year in the United States and the other half of the year in Iran. Clearance is denied.

**STATEMENT OF THE CASE**

On March 18, 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 April 11, 2005, and elected to have her case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about June 13, 2005. Applicant did not file a response to the FORM. The case was assigned to me on August 3, 2005.

**FINDINGS OF FACT**

Applicant is a 40 year old employee of a defense contractor.

Applicant was born and raised in the United States. In 1999 she married an Iranian citizen. In 2004, a United States Court ruled that the husband was eligible for asylum in the United States based on his legitimate fears of persecution if he returned to Iran. Based on this ruling, I find that applicant is now in the United States legally. Applicant states in her response to the SOR that her husband "will apply for U.S. citizenship as soon as eligible."

Applicant's husband's father is a citizen of Iran who possesses a valid United States green card. He spends six months a year in each country. Applicant's husband's mother is a naturalized United States citizen. It is not clear from the evidence if she is still an Iranian citizen. She too spends six months a year in each country.

After applicant fled Iran, Iranian government agents questioned his father and inquired about his son's whereabouts.

### **CONCLUSIONS**

The evidence establishes that applicant's husband, although now a legal resident of the United States, is a citizen of Iran. 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*).

There is no evidence that applicant's husband is an agent of Iran. However, given the interest the Iranian government showed in applicant after he fled that country, and the fact that the husband's parents spend significant time in Iran each year, I cannot conclude that the husband is not in a position to be exploited by Iran in a way that could force applicant to choose between loyalty to her husband and loyalty to the United States. Based on these facts, 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 not applicable, and Guideline B is found against applicant.

### **FORMAL FINDINGS**

GUIDELINE B: AGAINST THE APPLICANT

**DECISION**

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for applicant.

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Joseph Testan

Administrative Judge