

DATE: September 29, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 04-08553

## **DECISION OF ADMINISTRATIVE JUDGE**

**JOHN GRATTAN METZ, JR**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Daniel F. Crowley, Esquire, Department Counsel

#### **FOR APPLICANT**

William F. Savarino, Esquire

### **SYNOPSIS**

Applicant mitigated the security concerns raised under foreign influence by demonstrating that his family members residing overseas were not agents of a foreign government or so situated as to provide a point of influence on Applicant. Clearance granted.

### **STATEMENT OF THE CASE**

Applicant challenges the 6 June 2005 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of his clearance because of foreign preference, foreign influence, and personal conduct. [\(1\)](#) Applicant answered the SOR on 22 August 2005 and requested a hearing. DOHA assigned the case to me 14 April 2006 and I convened a hearing on 16 August 2006. DOHA received the transcript 28 August 2006.

### **FINDINGS OF FACT**

Applicant admitted that his parents are citizens and residents of Lebanon (SOR 1.b), that one of his sisters is a citizen of Lebanon residing in the United Arab Emirates (U.A.E)(SOR 1.e), and traveling to Lebanon in 1999 and 2000 (SOR 1.f.); accordingly I incorporate those admissions as findings of fact. He corrected the allegations of SOR 1.c. and 1.d. to reflect that he had four sisters and one brother who were citizens and residents of Lebanon (SOR 1.c.) and one brother who was a citizen of Lebanon residing in Sierra Leone. He denied that his spouse was a citizen and resident of Lebanon (SOR 1.a.), because they divorced and he has reconciled with, and plans to remarry, his first wife, a U.S. citizen residing in the U.S.

Applicant--a 47-year-old linguist for defense contractors since April 2003, and for his current employer since March 2004--seeks to make permanent the interim clearance he has held since approximately 2003. He has been granted access to a special access program (SAP) in a Department of Defense (DoD) intelligence agency.

Applicant is the company site manager for a group of 24 linguists attached to a DoD intelligence agency operating in

Iraq in support of Operation Iraqi Freedom (OIF). In addition to his responsibilities for the personnel administration of the group, he is responsible for the quality of translations by the other linguists in the group as well as performing his own translation duties. He is one of a few linguists in Iraq cleared to conduct one-on-one interrogations of insurgents and informants. His interrogations are not conducted in the relative safety of "green zone" interrogation rooms, but involve undercover missions into "red zones" to gather real-time intelligence pertinent to U.S. operations. These missions often involve using unmarked and unarmored cars, and traveling unarmed. He has also gone on combat missions with forward-deployed units, armed and better-armored, but barely less hazardous. He has been directly responsible for developing information that resulted in seizing caches of explosives being used to manufacture improvised explosive devices (IED). He was involved in the capture and interrogation of the doctor and body guard of a high-value Al-Qaeda target--leading directly to the target's apprehension. He went on 648 missions last year in Iraq. Put bluntly, he is one of the entry points for the classified intelligence that comes to U.S. forces from Iraqi insurgents and informants. He--and his linguists--are, as he describes "everything; we are the eyes, we are the mouth, we are everything for the troops that are in Iraq." (Tr. 55). He has been uniformly praised by his employer, his senior civilian supervisors, and his Army and Marine Corps supervisors (senior officers and junior officers alike) for his patriotism, his personal bravery in "red zones," the quality of his translations and interpretations, and the cultural nuances that he is able to bring to interrogations. His cultural knowledge and skill at putting informants and insurgents at ease increases the likelihood that he will obtain accurate information. [\(2\)](#)

Before deploying to Iraq, Applicant received counter-intelligence (CI) training from the DoD intelligence agency. He has taken, and passed, lifestyle and CI polygraphs in March 2004 and August 2005. When outside the "green zone," he operates with a code name. No one outside Iraq knows fully what he does. His ex-wife/current fiancé knows only that he works for the U.S. Army in Iraq. His family and his acquaintances believe that he is a dentist working for an American company in another middle eastern country. His character references state that they have gone, and would go again, "to war with him."

Applicant was born in Sierra Leone in January 1959. He is the oldest of nine children (four boys, five girls), all born in Sierra Leone. His father was Lebanese; his mother Sierra Leonian. When he was two, he and his mother returned to Lebanon because his father thought the education in Lebanon would be better than in Sierra Leone. In 1973, because of the political unrest in Lebanon, Applicant's father brought the family back to Sierra Leone. Applicant completed the highest level education available to him in Sierra Leone, and in 1982 or 1983, the government offered him a scholarship to attend dentistry school in Cuba. He moved to Cuba and completed dentistry school in August 1990. While he was in Cuba, he met his first wife--a Cuban national--whom he married in December 1989. They both immigrated to the U.S. in September 1990. Once in the U.S., Applicant worked at a variety of jobs, none in dentistry, both because of language barriers and his inability to afford the start-up costs of a dental practice. Both Applicant and his wife became U.S. citizens on the same day in September 2000, and obtained their U.S. passports in October 2000. In June 2001, they divorced because she had been unable to have children, but they continued to live together.

In September 1999, Applicant traveled to Lebanon to visit his parents, who he had not seen since he left Sierra Leone in 1982/1983. While in Lebanon, his parents re-introduced him to a cousin he had known in Sierra Leone. They hoped he might marry her, arranged marriages not being unusual in Lebanese culture. He did not marry his cousin then, but when his mother had a heart attack in September 2002, he returned to Lebanon to visit her. While there, he succumbed to parental pressure and married his cousin. However, marriage in Islamic culture differs vastly from marriage in western culture. In Islamic culture there is no equivalent to dating or courtship. Applicant's "marriage" to his cousin in September 2002 was a religious ceremony that most directly corresponds to a western "engagement." The religious ceremony is later followed by a civil ceremony constituting the legal marriage. Applicant and his cousin never completed the civil ceremony. Applicant returned to the U.S. in October 2002, and has not been back to Lebanon since. When he submitted his clearance application in March 2004 (G.E. 1) he was living with his ex-wife in the U.S., and his cousin was awaiting U.S. immigration approval to come to the U.S. However, while living with his ex-wife, he came to realize he did not want to go through with his arranged marriage to his cousin, and he reconciled with his ex-wife (Answer). Applicant, his parents, his cousin, and her family agreed the situation was not going to work. He broke off his "engagement" to his cousin, and had his father complete the religious dissolution of that "engagement" in March 2006. Applicant and his ex-wife are now engaged to be married, and hope to be married in December 2006, when he returns from Iraq. They own a house in the U.S. and all their financial interests are in the U.S.

Applicant's parents live are citizens and residents of Lebanon, where they moved from Sierra Leone when his father, now 72, retired as a diamond dealer. His mother was always a housewife. They do not rely on Applicant for any financial support. They have never been involved in Lebanese politics.

Applicant has little contact with his siblings, and does not even have addresses for most of them. He has a brother who is a citizen and resident of Denmark; one who is a citizen and resident of Sierra Leone; and one who is a citizen and resident of Lebanon. He has three sisters who are citizens and residents of Lebanon, and one who is a citizen of Lebanon living in Dubai (United Arab Emirates). A fifth sister was killed in Lebanon during the recent violence between Israel and Hezbollah.

Lebanon is a nominal democracy with a less-than-perfect human rights record. It has both a long history of civil war and of foreign influence by Syria. Lebanon is not a state sponsor of terrorism, but is a permissive environment for groups recognized by the U.S. as terrorist organizations, considered by Lebanon as "freedom fighters" against Israel. The U.S. State Department continues to maintain a travel warning for U.S. citizens contemplating travel to Lebanon.

U.A.E. is a loose federation of seven emirates (each with its own ruler), militarily weak, and surrounded by several powerful and ambitious neighbors. Its relatively open border and economy have caused problems in proliferation, terrorism, and human trafficking. It has enjoyed friendly relations with the U.S.--including security assistance--since its founding in 1971. U.A.E. is not known to be a collector of intelligence or economic information against the U.S.

Sierra Leone is a republic with a democratically elected president and parliament, in a multiparty system. Civil rights and religious freedom are respected, and it has a substantially free and critical media system. However, it is an impoverished, developing nation, emerging from a 10-year civil war that ended in 2001. It has cordial foreign relations with the U.S.

## **POLICIES AND BURDEN OF PROOF**

The Directive, Enclosure 2 lists adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline B (Foreign Influence).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.<sup>(3)</sup>

## **CONCLUSIONS**

The government established a potential case for disqualification under Guideline B by demonstrating that Applicant has immediate family members who are citizens of, and/or resident in, various middle eastern countries, and in Sierra Leone.<sup>(4)</sup> However, Applicant's travel to Lebanon has no independent security significance under Guideline B. At best, the travel helps establish Applicant's close ties of affection his parents, a point not seriously at issue here. Accordingly, I

find SOR 1.f. for Applicant.

However, although the government has established a case for disqualification, Applicant has mitigated the security concerns with regard to his parents and siblings. The middle east in general, and Lebanon in particular, can be a dangerous place to live. The U.A.E. and Lebanon are permissive environments for issues of foreign policy concern to the U.S. But more is required before those issues can raise security concerns. The political, economic, racial, and religious unrest in these countries may make them dangerous, unstable places to live. But in order for Applicant's family members to be in a position to be used as a pressure point on him--whether benign or malevolent--there must be a government or other entity ready, willing, and able to collect intelligence and use it. There is no evidence that Lebanon, Sierra Leone, or the U.A.E. meet these requirements. His parents are not agents of a foreign government, and are not so situated as to provide a point of influence on Applicant, thus satisfying Mitigating Condition (MC) 1.<sup>(5)</sup> They are retired and have no political connections or interests. Applicant has so little contact with his siblings that he does not have their addresses and has little knowledge of what they do for a living. Further, there is no evidence that the Lebanese government is actively engaged in the collection of U.S. intelligence such that would make Applicant or his parents likely targets for coercion, duress, or influence. The government's evidence explains the links to terrorism that are ongoing in Lebanon and the way that those terrorist organizations operate, the increase in terrorism, and the increase in membership in terrorist groups. Several of the groups that are frequently in the news, for example Hezbollah and Hamas, operate in Lebanon and practice terrorist acts against Israelis and against U.S. citizens as well as indiscriminate violence in order to draw attention to themselves and increase their membership and their power. There is no indication they use terrorism to gain access to U.S. information. In addition, the government's evidence on the U.A.E and Sierra Leone. raise no security concerns relative to Applicant's siblings living there. Neither the U.A.E. or Sierra Leone are active collectors of U.S. economic or intelligence information.

Beyond satisfying the mitigating conditions under Guideline B, evaluating Applicant under the "whole person" concept also warrants granting his clearance. Applicant has had access to the classified information he needs for over two years, and has handled it appropriately. He has his superiors' absolute trust. This is not a case of evaluating Applicant's contribution to the U.S. mission in Iraq, great though it may be, but recognizing that Applicant has achieved these accomplishments and protected classified information, even though the potential pressures of foreign influence have been in place all that time. Applicant has told his family members in the middle east and Sierra Leone nothing of what his real job is, and he has been well-trained in the steps he must take if anyone tries to elicit classified information. Under these circumstances, I conclude that it is unlikely Applicant can be pressured based solely on his family members living in Lebanon, Sierra Leone, or the U.A.E. Accordingly, I resolve Guideline B for Applicant.

### **FORMAL FINDINGS**

Paragraph 1. Guideline B: FOR THE APPLICANT

Subparagraph a: For the Applicant

Subparagraph b: For the Applicant

Subparagraph c: For the Applicant

Subparagraph d: For the Applicant

Subparagraph e: For the Applicant

Subparagraph f: 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. Clearance granted.

**John G. Metz, Jr.**

## **Administrative Judge**

1. Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended (Directive).
2. Known in tradecraft as "eliciting" information.
3. *See, Department of the Navy v. Egan*, 484 U.S. 518 (1988).
4. 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;
5. 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 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.