

DATE: April 28, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 05-02687

## **DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

### **APPEARANCES**

#### **FOR GOVERNMENT**

Edward W. Loughran, Department Counsel

#### **FOR APPLICANT**

*Pro Se*

### **SYNOPSIS**

Applicant's wife, a naturalized United States citizen, has immediate family members, a cousin, and two close friends who are residents, citizens and/or agents of a foreign country. Applicant presented convincing evidence that these relationships do not pose an unacceptable security risk. I therefore conclude that applicant has rebutted the Government's *prima facie* case. Clearance is granted.

### **STATEMENT OF THE CASE**

On September 16, 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, 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 October 7, 2005. The case was assigned to the undersigned on November 30, 2005. A Notice of Hearing was issued on January 25, 2006, and the hearing was held on February 14, 2006. The transcript was received on February 27, 2006.

### **FINDINGS OF FACT**

Applicant is a 42 year old engineer who was born and raised in the United States.

Applicant's wife was born and raised in Thailand. Applicant met her in 2000 while she was working at a convenience store in the United States. They married in 2001. She became a United States citizen in 2002. It is unclear if the wife is currently a dual citizen; however, she considers herself solely a United States citizen. When she travels to Thailand to visit her mother, she uses her United States passport.

Applicant's wife's elderly mother is a citizen and resident of Thailand. <sup>(1)</sup> Applicant's wife has two brothers who have lived in Vietnam since the 1960s. The wife has seen them three times since the early 1960s, the last time in 2005 at their father's funeral in Thailand. They maintain little or no contact. Applicant has never met them.

Applicant's wife's cousin was, in the early 1990s, a Thai military attache stationed in a third country. Applicant has never met him, and the wife last saw him in 1993.

Applicant's wife has a close relationship with a former senior officer (SO) in the Thai military and the officer's wife. Since applicant's marriage, he and his wife have visited Thailand together once. During the trip, they stayed at residences owned by the SO and his wife. The SO and his wife recently visited applicant and his wife in the United States and stayed at applicant's home. The women are particularly close, and speak on the phone about once a month (TR at 43). Neither the SO nor his wife have ever showed an interest in applicant's work.

Applicant's wife has no intention of returning to Thailand to live (TR at 33-34).

The testimony of applicant's supervisor and a performance appraisal establish that applicant is an outstanding employee who is reliable and trustworthy.

### CONCLUSIONS

Applicant's wife's two brothers living in Vietnam are essentially brothers-in-law in name only. Applicant's wife has seen them three times in over 40 years, and applicant has never met them. They pose no security risk.

Applicant's wife's mother, cousin, and two close friends are citizens and residents of Thailand, a close United States ally. Because the potential exists for these individuals to pressure or influence applicant's wife, who in turn could pressure applicant, Disqualifying Condition E2.A2.1.2.2 (*sharing living quarters with a person, regardless of their citizenship status, if the potential for adverse foreign influence or duress exists*) applies. One of the close friends referenced above is a retired SO in the Thai military. Given his high rank and recent retirement, he must still be considered "connected" to the Thai government. Accordingly Disqualifying Condition E2.A2.1.2.3 (*relatives, cohabitants, or associates who are connected with any foreign government*) also applies.

As to applicant's wife's mother, and the SO and his wife, applicant's contacts with them have been casual and infrequent. Accordingly, Mitigating Condition E2.A2.1.3.3 (*contact and correspondence with foreign citizens are casual and infrequent*) is also applicable. In the case of applicant's wife's cousin, applicant has had no contact with him.

Applicant is a native born United States citizen. He and his wife are loyal citizens. None of the wife's relatives has ever shown an interest in what applicant does for a living. Applicant's testimony that if he were ever approached to provide classified information, he would report the matter to his security department (TR at 45), was credible and worthy of belief. Based on these facts, the Guideline B factors, and the Directive's general factors, <sup>(2)</sup> I conclude that it is now clearly consistent with the national interest to grant applicant access to classified information.

### 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.

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Joseph Testan

Administrative Judge

1. Applicant's father-in-law passed away since the SOR was issued.

2. Directive, Paragraphs E2.2.1.1 through E2.2.1.9.