



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
 )  
----- ) ISCR Case No. 07-04047  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Richard A. Stevens, Esquire, Department Counsel  
For Applicant: *Pro Se*

January 28, 2008

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**Decision**

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CURRY, Marc E., Administrative Judge:

On June 28, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns under Guidelines C and B. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR on August 15, 2007, and requested a hearing before an Administrative Judge. I received the case assignment on November 19, 2007. DOHA issued a notice of hearing on November 21, 2007, and I convened the hearing as scheduled on December 11, 2007. During the hearing, I received three government exhibits, and Applicant's testimony. DOHA received the hearing transcript (Tr.) on December 19, 2007. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

## **Ruling on Evidence**

At department counsel's request, I took administrative notice of several relevant adjudicative facts about Syria and Lebanon. These facts are encapsulated in 19 source documents admitted into the record. They are, generally, as follows:

1. The State Department has designated Syria as a state sponsor of terrorism. A number of the terrorist groups that have offices in Syria oppose U.S. policies in the Middle East, and have the ability and intent to undermine American interests (Exhibit II at 2, Exhibit III at 1);

2. Syria has a poor human rights record. Abuses include lack of fair public trials, arbitrary arrests and detention, and severe restrictions on civil liberties (*see generally*, Exhibit V);

3. Syrian security forces have at times monitored its citizens' telephone conversations, fax transmissions, and mail addressed to both citizens and foreign residents (Exhibit V at 9);

4. On May 11, 2004, President Bush signed an executive order implementing sanctions against Syria prohibiting the export to Syria of any products other than food and medicine (Exhibit II at 4);

5. Syria has a compulsory military service requirement for all male citizens over age 18. This requirement applies to non-resident citizens unless they pay a \$2,000 exemption fee (Exhibit II at 4);

6. Militias and non-Lebanese forces operating outside of Lebanon's central government authority frequently violated citizen's privacy rights (Exhibit XV at 5);

7. Hezbollah, the most technically proficient terrorist group in the world, maintains offices in Lebanon, has official liaison officers to the Lebanese security services, and is represented by elected deputies in the Lebanese parliament (Exhibit 9 at 9); and,

8. The U.S. remains concerned about the threat of terrorist attacks against Western interests in Lebanon. (Exhibit X at 1).

## **Findings of Fact**

In his Answer, Applicant admitted all of the SOR allegations except subparagraph 1.a. He is a 45-year-old married man with four children ranging in age from 3 to 13. He works for a defense contractor as a software engineer, and he has a Ph.D in electrical engineering earned in 1994.

Applicant emigrated to the United States from Lebanon in 1983 to attend college. He lived in the United States on a student visa from 1983 to 1994. After earning his

doctorate, he obtained a worker visa which he held from 1994 to 1997. He obtained permanent resident status in 1997, and became a naturalized U.S. citizen in 2003. (Tr. 45).

Although Applicant was born and raised in Lebanon, he has never been a Lebanese citizen. Lebanese law through approximately 1995 prevented anyone who either was not born in Lebanon or whose parents were not born in Lebanon from holding Lebanese citizenship (Exhibit 3 at 1). Because both parents were born in Syria, Applicant held Syrian citizenship through childhood, and emigrated to the United States as a Syrian citizen. Currently, he is a dual citizen with Syria and the U.S.

Applicant's parents and three of his siblings (two brothers and a sister) live in Lebanon. Another sibling is a naturalized U.S. citizen and resident. All of the siblings living in Lebanon are Syrian citizens. In approximately 1995, after Lebanese law changed to allow longtime residents to obtain Lebanese citizenship, his parents and two brothers applied for and obtained it (Exhibit 3 at 1, Tr. 29). His sister's application is pending and she remains solely a Syrian citizen.

Applicant's father owns a carpentry factory, and his mother is a homemaker (Tr. 41). He talks to them approximately once every two weeks (Tr. 48). Since emigrating to the U.S. in 1983, he has returned to Lebanon to visit them six times (*Id.*). The most recent visits occurred in 2005 and 2006. In 1994 and 2003, Applicant's parents visited him in the U.S.

Two of Applicant's brothers living in Lebanon manage the carpentry factory. The remaining brother living in Lebanon owns a pool-and-patio store, and his sister is a high-school teacher (Tr. 52).

Applicant has only seen his siblings living in Lebanon 4 times in 14 years. They do not exchange e-mail correspondence or holiday cards. The only time he talks to them is if any happen to be visiting their parents' house when he calls (Tr. 49, Exhibit 3 at 9).

Applicant's wife was born in Kuwait and raised in Syria (Tr. 46). She became a naturalized U.S. citizen in 2004.

Both of Applicant's in-laws live in Syria. His father-in-law is retired, and his mother-in-law is a homemaker (Tr. 54). The father-in-law retired years before Applicant met his wife. Applicant does not know what he did for a living before retiring (*Id.*). He talks to them approximately once every three to six months (Tr. 55, Exhibit 3 at 5). They have visited his family in the U.S. on past occasions.

Applicant has travelled to Syria on four occasions. He and his wife wed in Syria in 1992, and they returned in 2000, 2005 and 2006. These trips corresponded to trips to Lebanon.

All of Applicant's children were born and raised in the U.S. All of his social ties excluding his family are in the U.S. (Tr. 67).

Before Applicant became a U.S. citizen, he used a Syrian passport for travel to both Lebanon and Syria. It expired in 2001, and he has not renewed it (Tr. 28). Since then, Applicant has used his U.S. passport exclusively when traveling internationally.

SOR subparagraph 1.c alleges Applicant told a DoD investigator in February 2006 that he maintains his Syrian citizenship to facilitate travel to Syria to visit relatives. There is no February 2006 signed, sworn statement in the record evidence. An investigative agent raised this issue in a May 2007 interview. Applicant, in a signed, sworn statement, responded as follows:

[the investigative agent] informed me . . .that I had stated I maintained my citizenship with Syria to make it easier to travel and visit relatives. . . I can't explain [this] statement. . . Any red tape associated with carrying a U.S. passport is negligible. . . Since acquiring it, it is the only document used for all of my trips.

In his Answer, Applicant reiterated the explanation given in his May 2007 signed, sworn statement, and asserted that SOR subparagraph 1.b was a mischaracterization of his February 2006 statement.

In 2005, Applicant paid the Syrian government a \$2,000 fee to waive its compulsory military service requirement (Tr. 40). He did so because he did not want this issue to present a problem if he returned in the future to visit his wife's family (Tr. 40).

## **Analysis**

### **Foreign Preference**

Under this guideline, "[w]hen 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 (AG ¶ 9).

Here, the government did not establish that Applicant exercises dual citizenship with Syria and the U.S., as alleged in SOR subparagraph 1.a. For subparagraph 1.b, I do not conclude that Applicant's decision to pay the Syrian government an exemption fee to waive its compulsory military service requirement is indicative of a preference for Syria. Instead, this action constitutes persuasive supporting evidence of his contention, raised repeatedly throughout the hearing, that he has no preference for Syria.

For SOR subparagraph 1.c, Applicant contends the government mischaracterized his statement made to a DoD agent in 2006. Absent either testimony

from the interviewing agent, or a signed, sworn copy of the alleged 2006 statement, I conclude the government failed to establish SOR subparagraph 1.c.

None of the foreign preference disqualifying conditions apply. I conclude there are no foreign preference security concerns.

## **Foreign Influence**

Under this adjudicative guideline, “foreign contacts and interests may be a security concern if the individual has divided loyalties or foreign financial interests, may be manipulated or induced to help a foreign person, group, organization, or government in a way that is not in U.S. interests, or is vulnerable to pressure or coercion by any foreign interest.” (AG ¶ 6). Here, Applicant’s parents and four siblings are dual Lebanese/Syrian citizens who reside in Lebanon, and his in-laws are Syrian citizens and residents. These relationships raise the issue of whether AG ¶ 7(a), “contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of, or resident in foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion,” applies.

The government presented no evidence that Lebanon is specifically targeting U.S. citizens to obtain protected information. In evaluating the potential for coercion, however, the risk of terrorism within a foreign country is a relevant consideration independent of whether it is known to target U.S. citizens (*See generally*, ISCR Case No. 05-11292, April 12, 2007). Hezbollah and other terrorist/paramilitary groups have a pervasive influence on Lebanese politics and civil society. This severely undercuts the ability its central government to preserve the rule of law. AG ¶ 7(a) applies to Applicant’s relationship with his family members who are Lebanese citizens and residents.

Many of Lebanon’s problems stem from Syria, an authoritarian country that supports terrorism and foments political unrest in Lebanon to advance its geopolitical objectives. AG ¶ 7(a) also applies to Applicant’s relationship with his in-laws living in Syria.

Applicant’s rare communication over the years with his siblings living in Lebanon triggers the application of AG ¶ 8 (c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.” Conversely, Applicant remains close to his parents. Moreover, although he talks to his in-laws infrequently, he has visited them on each of his past three trips to the region. AG ¶ 8 (c) does not apply to these relationships.

The remaining mitigating conditions that are potentially applicable to Applicant’s relationships with his foreign relatives are AG ¶ 8(a), “the nature of the relationships with the foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government, and the interests of the U.S.,” and AG ¶ 8(b), “there

is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest."

AG ¶ 8(a) does not apply to Applicant's relationship with his parents. Their close relationship, in conjunction with the heightened risk posed by Lebanon, renders the first two prongs of AG ¶ 8(a) inapplicable. The third prong is also inapplicable. Neither terrorists nor authoritarian governments would be likely to have any qualms about pressuring individuals to extort sensitive or protected information. Consequently, their positions or activities within Lebanon have little probative value.

AG ¶ 8(a) is similarly inapplicable to Applicant's relationship with his in-laws. Although he does not speak with them often, his wife does, and the family has traveled to Syria to visit them on each of the past three trips to the region. Moreover, as the source of many of Lebanon's internal problems, Syria represents a greater risk to U.S. interests than does Lebanon.

Applicant has lived in the U.S. for 24 years, earning two advanced degrees during that time. His children were born in the U.S. and his social ties are all in the U.S. These ties are not sufficient enough to trigger the application of AG ¶ 8(b). As country's that are either terrorist havens or police states that actively support terrorists, the types of conflict of interests Applicant may encounter could conceivably have life-threatening consequences for his family. Under these circumstances, the depth of his loyalties and longstanding relationships in the U.S. does not outweigh any potential conflict of interest he may encounter.

Subparagraph 1.c does not represent a foreign influence security concern for the same reason it does not represent a foreign preference security concern (See Foreign Preference section of analysis, *supra*).

### **Whole Person Concept**

Under the whole person concept, the Administrative Judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a): "(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) extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent 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."

I was impressed with Applicant's sense of familial obligation to his parents and his in-laws. Positive attributes can be exploited by foreign countries as readily as

negative ones, however. Although he has longstanding relationships and ties in the U.S., they are insufficient to overcome the potential to vulnerability created by his relatives living in Lebanon and Syria.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline C:	FOR APPLICANT
Subparagraphs 1.a - 1.c:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	For Applicant
Subparagraph 2.d -2.g:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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MARC E. CURRY  
Administrative Judge