



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
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----- ) ISCR Case No. 07-17124  
SSN: ----- )  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Gina Marine, Esq., Department Counsel  
For Applicant: *Pro Se*

September 16, 2008

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**Decision**

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MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on March 23, 2006. On May 8, 2008, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline B and Guideline C that provided the basis for its action to deny him a security clearance and refer the matter to an administrative judge. 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 as of September 1, 2006.

Applicant answered the SOR in writing on June 4, 2008, and requested a hearing before an administrative judge. The case was assigned to me on June 30, 2008. On July 15, 2008, I scheduled a hearing for August 14, 2008. The parties appeared as

scheduled. Three government exhibits (Ex. 1-3) and three Applicant exhibits (Ex. A-C) were admitted and Applicant testified on his behalf. A transcript (Tr.) of the hearing was received by DOHA on August 26, 2008. Based on review of the case file, pleadings, exhibits, and testimony, and the facts for administrative notice, eligibility for access to classified information is denied.

## **Procedural and Evidentiary Rulings**

### **Request for Administrative Notice**

On June 25, 2008, Department Counsel requested administrative notice be taken of certain facts relating to Egypt and its foreign relations, including with the United States (U.S.). The request was based on publications from the U.S. State Department. The government's formal request and the attached documents were not admitted into evidence but were included in the record.

On July 7, 2008, I notified the parties of my intention to take administrative notice of specific facts, subject to revision based on the evidence admitted at the hearing and any valid objections. The parties were granted until July 21, 2008, to file any objections, and for Applicant to propose facts for administrative notice. Neither party responded by the due date. Before the introduction of any evidence at Applicant's hearing, I confirmed the parties had no objections. I agreed to take administrative notice of particular facts pertaining to Egypt and its relations with the U.S., as set forth below.

### **Motion to Amend SOR**

Under ¶ E3.1.17 of the Directive, Department Counsel moved before closing argument to amend SOR ¶¶ 1.a and 1.b to reflect that Applicant's ex-wife (spouse #2) and his eldest daughter are resident citizens of Egypt based on the evidence showing that he and his second wife had a daughter, not a son, that they had again divorced following their remarriage, and that his ex-wife and their daughter live in Egypt. Department Counsel also moved to add SOR ¶ 1.e under Guideline B, to conform to the evidence showing Applicant shares ownership of a house in Egypt with his siblings. Applicant did not object and the motion was granted.

## **Findings of Fact**

In the amended SOR, DOHA alleges under Guideline B, foreign influence, that one of Applicant's former wives (SOR ¶ 1.a), his eldest daughter (SOR ¶ 1.b), and his mother, three sisters, and brother (SOR ¶ 1.c) are resident citizens of Egypt; that he maintains contact with his mother and siblings once weekly by telephone (SOR ¶ 1.c), and that he traveled to Egypt in 1993, 1997, 2004, 2006, and 2007 (SOR ¶ 1.d). DOHA alleges under Guideline C that Applicant exercises dual citizenship with Egypt and the U.S. (SOR ¶ 2.a) and that he holds an expired Egyptian passport which he used to travel to Egypt after he became a U.S. citizen as it allowed him to enter without a visa (SOR ¶ 2.b). Applicant indicated in his response to the SOR that he got divorced in

March 2008, and that his former wife and his eldest daughter reside in Egypt. He otherwise admitted the allegations but expressed his willingness to renounce his Egyptian citizenship “if this is the problem” and to destroy his expired Egyptian passport “because it is no good.” After considering the evidence of record, I make the following findings of fact.

Applicant is a 52-year-old test technician who has worked for the same defense contractor since April 2001 (Ex. 1). He seeks a secret security clearance, never having previously held a U.S. security clearance (Tr. 69).

Applicant is the second of five children (two sons and then three daughters) born in Egypt to resident citizens of that country (Ex. 1). He was educated in Egypt, and earned his bachelor of science degree in electrical engineering from a preeminent university in Egypt in July 1978. From April 1979 to July 1980, he served on inactive reserve in the Egyptian army (Ex. 1).

In 1981, Applicant had some computer training in the U.S. (Tr. 67). He returned to the U.S. as a tourist in January 1986, on an Egyptian passport issued to him in December 1985 and valid for seven years (Ex. 3). While in the U.S., he met his first wife, a U.S. native citizen, at a donut shop (Tr. 68). They married in the U.S. in October 1986 (Ex. 1, Tr. 67-68).<sup>1</sup> They divorced in about December 1987 (Ex. 1).

Applicant traveled to Egypt on at least an annual basis from 1988 to 1991. His Egyptian passport shows he entered the U.S. in September 1988, November 1989, August 1990, and July 1991 (Ex. 3).

Applicant applied for U.S. citizenship as soon as he was eligible (Tr. 41), and in February 1993, he became a naturalized U.S. citizen (Ex. 1). He took no action at that time to formally renounce his Egyptian citizenship. He obtained a U.S. passport (Tr. 41-42), but also retained the Egyptian passport that expired in December 1992. Applicant took both his expired Egyptian and his valid U.S. passports with him on subsequent trips to Egypt. He showed both passports to Egyptian border control to prove that he was born in Egypt so that he would not have to obtain a visa to enter on his U.S. passport (Tr. 38).

In October 1993, Applicant married an Egyptian native (spouse #2) in Egypt. They had a daughter (daughter #1) born to them in Egypt in October 1994. Applicant returned

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<sup>1</sup>Applicant testified he entered the U.S. in January 1986 (Tr. 40), and his Egyptian passport bears a visa stamp (albeit barely legible) of January 7, 1986. He further testified that he met his first wife while here as a tourist and that he married her the same month they met (Tr. 68-69). He indicated on his e-QIP that their marriage took place in October 1986 in the U.S. (Ex. 1). His Egyptian passport also shows that he had been processed in 1987 for I-551, temporary evidence of lawful admission for permanent residence. It appears that he was in the U.S. for sometime before he met his spouse. His lawful admission on a spousal visa dates from early 1987.

to the U.S. while his spouse and daughter remained behind in Egypt.<sup>2</sup> In 1997, Applicant and spouse #2 divorced (Ex. 1).<sup>3</sup> In mid-June 1997, Applicant got married in Egypt to his third wife (spouse #3), a native of Saudi Arabia. Applicant sponsored her immigration to the U.S. In July 1998, a daughter was born to them in the U.S. They had a second child, a son, born in the U.S. in November 1999 (Ex. 1, Ex. 3). Applicant did not inquire into whether his children acquired derivative Egyptian citizenship, although the U.S. State Department reports that Egypt considers all children born to Egyptian males to be citizens of Egypt (see *infra*). He has never applied for Egyptian citizenship for them, and they have never held Egyptian passports (Tr. 43-44). In April 2001, Applicant went to work for his present employer (Ex. 1). In April 2003, Applicant renewed his U.S. passport for another ten years.

Applicant, spouse #3, and their two children, traveled to Egypt in March 2004 (Tr. 54). As he had before, he presented his expired Egyptian passport at the Egyptian airport to avoid having to obtain a visa on his U.S. passport (Ex. 1, Ex. 3, Tr. 40, 56). Applicant stayed with his mother, while spouse #3 and the children stayed with her mother, as he and spouse #3 were having marital problems (Tr. 55). He was granted a divorce from spouse #3 in Egypt (Ex. 1), and the following day, he remarried spouse #2 (Ex. 1). When Applicant left Egypt in April 2004 (Ex. 1), spouse #2 and daughter #1 stayed behind. In January 2006, Applicant traveled to Egypt. He sponsored spouse #2's immigration, and in about February 2006, spouse #2 and daughter #1 came to the U.S. for the first time (Ex. 1).

On March 23, 2006, Applicant executed an e-QIP. He disclosed his birth in Egypt but responded "No" to whether he maintained dual citizenship since his naturalization in the U.S. in February 1993. Applicant disclosed his prior marriage to spouse #3 who had acquired U.S. citizenship, and his re-marriage to spouse #2, an Egyptian citizen. Applicant disclosed the Egyptian citizenship and residency of his mother and siblings. His father was deceased. He listed trips to Egypt in March/April 2004 and January 2006. Applicant answered "No" to question 17.a concerning whether he had any foreign property, business connections, or financial interests. At his hearing, he acknowledged that he had inherited property in Egypt with his siblings on his father's death (Tr. 65).

About four months after they had immigrated to the U.S., spouse #2 and daughter #1 returned to Egypt to live (Tr. 44, 46). In March 2007, Applicant went to Egypt for a couple of weeks to see his mother (Ex. 3, Tr. 59). He spent the entire time with his family (Tr. 60). On December 27, 2007, Applicant was interviewed by a government investigator about, in part, his foreign connections. Applicant indicated that he held dual citizenship with Egypt and the U.S. because he had not had a reason to renounce his Egyptian citizenship and it allowed him to enter Egypt without a visa. Applicant denied

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<sup>2</sup>The duration of Applicant's stay in Egypt is unclear. In light of the birth of his daughter one year after his wedding date, Applicant would have had to stay in Egypt for at least a few months after his marriage.

<sup>3</sup>Applicant indicated in his e-QIP that they were first divorced on May 11, 1997 (Ex. 1). The divorce certification of March 2008 that dissolved their second marriage indicates that she was "firstly divorced revocable" on January 11, 1997 (Ex. C).

any conflict between his obligations to his family members in Egypt, and the U.S., which he averred held his "ultimate loyalty." He indicated he would have no problem renouncing his Egyptian citizenship. Applicant provided details of his siblings employments in Egypt, and indicated that his relatives in Egypt are aware that he is being considered for a position of national security (Ex. 2).

On February 1, 2008, Applicant responded to DOHA interrogatories concerning his use and possession of an Egyptian passport. He explained he showed his expired Egyptian passport at the Cairo airport so that he would not need a visa, but that he was willing to destroy, surrender, or invalidate the foreign passport because it expired a long time ago. He denied any intent to renew his expired Egyptian passport. Applicant expressed plans to travel to Egypt "in the next few months for 2 weeks max. to see [his] mother" (Ex. 3).

In March 2008, Applicant traveled to Egypt where he obtained a divorce from spouse #2 (Ex. B, Tr. 53). He stayed with his mother but also visited with daughter #1 (Tr. 76). As he had on previous trips, Applicant took both his U.S. and expired Egyptian passports (Tr. 39). His U.S. passport was stamped by a border official (Ex. B), but he was informed that his Egyptian passport was invalid so he should not use it in the future. Applicant was led to understand that it would be sufficient to present only his U.S. passport on future trips since it notes his birth in Egypt (Tr. 39). At his hearing, he ripped pages out of the expired Egyptian passport in an effort to prove he would not use it again (Tr. 97).

Spouse #3 and their two children continue to reside in the U.S. (Tr. 42). He sees his children every weekend ("Well, these two kids are everything in my life." Tr. 47), and telephones them daily (Tr. 48). Applicant pays child support of \$217 per week for his children in the U.S. (Tr. 52).

Applicant talks to daughter #1 in Egypt once a week. He does not speak to his ex-wife living in Egypt unless he has a reason to do so (Tr. 49). Applicant does not believe she has remarried, but he is not sure (Tr. 50). In March 2008, he began voluntary payments of 1,200 Egyptian pounds (about \$230 USD) monthly to support his daughter in Egypt (Tr. 52, 72). He had not previously paid any child support for her (Tr. 81). His ex-wife is an attorney employed in a municipal office that processes power of attorney documents (Tr. 75). She has access to his bank account in the U.S. through an ATM card (Tr. 74), and withdraws the 1,200 Egyptian pounds the first of every month (Tr. 75).

On all of his visits to Egypt, Applicant saw his mother and his siblings (Tr. 55-56, 61). Applicant sends his mother money when she needs it, about \$100 every two or three months (Tr. 62). He fell behind in a student loan obligation because of financial support sent to his mother in Egypt but was making \$120 monthly payments toward the \$10,000 debt as of December 2007 (Ex. 2). Applicant telephones his mother once a week to check on her well-being. He speaks to his siblings if they happen to be at his mother's home when he calls, but he does not telephone them at their homes (Tr. 63). Applicant last spoke to his brother in May or June 2008 and to his sisters the previous

month (Tr. 64). Applicant told his relatives in Egypt that he had applied for a security clearance because he expected someone would interview them. His family members do not know the details of his work, although some of them are aware of his employer (Tr. 71).

Applicant's mother does not work outside of the home. His brother is an accountant in Egypt. He is married to a veterinarian and they have three children in their late teens/early 20s who are students. The eldest of Applicant's three sisters is an administrative assistant. She is married to a teacher and they have five children, two of whom are accountants, one a doctor, and one an engineer. Their youngest is about 19 and is a student. The middle sister is a physician married to an accountant. Their four children are all students. Applicant's youngest sister is a historian. Her spouse is an engineer and they have three children who are all students (Ex. 2). None of them work for the Egyptian government (Tr. 69).

Applicant does not own any real estate or hold any stocks or bonds in the U.S. (Tr. 64, Ex. 2). On his father's death, he inherited with his siblings a share of the family's home in Egypt. Applicant does not know the value of his share (Tr. 65).

Applicant has been an excellent worker for the defense contractor. He has taken initiative on the job, at times seeking out additional responsibilities beyond the normal scope of his duties, and demonstrated a high level of competency. He works well with other members of his team (Ex. A). Applicant is willing to renounce his Egyptian citizenship if required to keep his job (Answer, Tr. 99).

After review of U.S. government publications concerning Egypt and its relations with the U.S., I take administrative notice of the following facts:

Egypt is an Arab republic with a fairly homogenous populace of Hamitic origin. It has been a unified state for more than 5,000 years, although its independence dates from 1922. Power is vested by constitution in a strong executive. Since the assassination of then President Anwar el-Sadat by Islamic extremists in October 1981, Egypt has been led by Hosni Mubarak and the National Democratic Party. Under Mubarak, Egypt has reestablished its position as a leader in the Arab world, and played a moderating role in international forums such as the UN. Egypt has pursued a domestic economic reform program to expand the private sector since 1991, but it has a poor human rights record. A state of emergency has been in place almost continuously since 1967, but President Mubarak has pledged to lift the law by June 2008 in a call for new comprehensive antiterrorism legislation. Security forces engage in arbitrary arrest, prolonged detention, torture and abuse of prisoners and detainees. The government's respect for freedoms of the press, association, and religion has declined, and other civil liberties (including Internet freedom) are restricted. Corruption and lack of transparency are persistent problems.

The United States and Egypt enjoy strong and friendly relations based on mutual interest in regional security, Middle East peace and stability, and revitalization of the

Egyptian economy with strong bilateral trade relations. Egypt remains a strong military and strategic partner of the U.S. and the U.S.-Egyptian military relationship is continually reinforced by Egypt's role as a contributor to various UN peacekeeping operations. U.S. military aid to Egypt totals over \$1.3 billion annually. Egypt is not known to target U.S. sensitive information, including economic intelligence.

Egypt and the U.S. have a record of close cooperation on counterterrorism and law enforcement issues, and protection of U.S. persons, facilities, and interests remains a high priority for the Egyptian government. Egypt has a policy of "zero tolerance" toward extremism, and terrorists have historically been prosecuted to the full extent of the law. Egypt suffered a series of deadly terrorist attacks in or near tourist sites in 2004, 2005, and 2006. There were no successful terrorist attacks in Egypt in 2007, mainly due to the vigilance and effectiveness of Egypt's security services, but there is a persistent indigenous threat of terror activities in the Sinai.

The Egyptian government considers all children born to Egyptian fathers to be Egyptian citizens. While in Egypt, U.S. citizens of Egyptian origin may be subject to laws that impose special obligations on Egyptian citizens. Male dual nationals staying in Egypt for more than six months from arrival and who have not completed military service are not generally required to enlist in the armed forces, but they must obtain an exemption certificate before they depart Egypt. Dual U.S.-Egyptian nationals may enter and exit Egypt on their U.S. passports. Dual nationals who travel to Egypt on their Egyptian passports are normally treated as Egyptian citizens by the local government. The ability to provide U.S. consular assistance to those traveling on Egyptian passports is extremely limited.

### **Policies**

When evaluating an Applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." 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 grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the 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.

Section 7 of Executive Order 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B—Foreign Influence**

The security concern for foreign influence is set out in AG ¶ 6:

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. Adjudication under this Guideline can and should consider the identity of the foreign country in which the foreign contact or financial interest is located, including, but not limited to, such considerations as whether the foreign country is known to target United States citizens to obtain protected information and/or is associated with a risk of terrorism.

Applicant has close relationships with his mother and siblings who are resident citizens of Egypt (SOR ¶ 1.c). He traveled to Egypt four times since March 2004 to see them (SOR ¶ 1d), and stayed with his mother while in Egypt. He has provided his mother financial support over the years, at times in preference to paying his student loan. He



sends her about \$100 USD every two to three months currently, and he telephones her weekly to check on her well-being. Daughter #1 is also a resident citizen of Egypt (SOR ¶ 1.b). During her entire life, she lived with Applicant for only a brief four-month period in 2006. Yet she and Applicant have enough of a relationship for him to telephone her in Egypt once weekly and support her financially through voluntary payments of about \$230 USD monthly. Despite the fact that they were twice married, from 1993 to 1997 and from March 2004 to March 2008, Applicant does not have a close relationship with former spouse #2 (SOR ¶ 1.a). They lived apart during their first marriage and were together only four months during their second marriage. He testified that he does not speak to his ex-wife unless he has a reason to do so. There is a heightened risk nonetheless because she is the primary caretaker for their daughter. She has access to Applicant's bank account through an ATM card and withdraws monthly child support from his account. 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 a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion") applies because of his bonds of affection and/or obligation to these resident citizens of Egypt.

The government alleged separate foreign influence concerns because of Applicant's travel in recent years to Egypt (SOR ¶ 1.d). AG ¶ 7(i) applies where there is "conduct, especially while traveling outside the U.S., which may make the individual vulnerable to exploitation, pressure, or coercion by a foreign person, group, government, or country." There is no evidence of conduct that would implicate AG ¶ 7(i) with the exception of his use of his expired Egyptian passport to prove his Egyptian birth so that he would not need a visa on his U.S. passport. The security implications raised by this acceptance of a benefit of his foreign citizenship (not having to obtain a visa to enter Egypt) are more appropriately covered under Guideline C. The primary relevance of his foreign travel under Guideline B is that it confirms the close relationship with family members in Egypt, which is covered under AG ¶ 7(a).

The government amended the SOR at the hearing to allege concerns of foreign influence raised by his part ownership of the family home in Egypt (SOR ¶ 1.e). Applicant testified that he inherited with his siblings the large family home, and he owns no comparable real estate in the U.S. Yet he was unable to quantify the value of his share of this foreign asset. He credibly asserted a willingness to renounce his Egyptian citizenship to keep his job in the U.S., so he is clearly invested financially in the U.S. Not enough is known about his stake in the foreign asset to conclude that it presents the heightened risk required for AG ¶ 7(e) ("a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation").

The demonstrated strong feelings of affection for his mother, siblings, and daughter living in Egypt make it difficult to satisfy mitigating condition AG ¶ 8(a) ("the nature of the relationships with 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.”). It must be noted that Egypt is a strong ally of the U.S. in the fight against terror, and Egypt has not been known to actively target U.S. sensitive information. To the extent that the risk is heightened because of terrorist activities that have occurred within Egypt as recently as 2004, 2005, and 2006, a distinction must be made between the risk to physical security that may exist and the types of concern that rise to the level of compromising Applicant’s ability to safeguard national security. Terrorism is not limited to indiscriminate acts of violence intended to incite fear. It often has political aims, and where it is allowed to operate unchecked, or is condoned, one has to question the ability and/or willingness of a government to protect its citizens against interference, coercion, or other abuses. Yet recent reports by the U.S. State Department show that while Egypt’s northern Sinai region remained a haven for smuggling of weapons, explosives, funds, and people between Egypt, Gaza, and Israel, the Egyptian government’s active opposition to terrorism, and effective intelligence and security services, made the country an unattractive locale for terror groups in 2007. On the other hand, Egypt has a poor human rights record marked by arbitrary arrest and detention, pressure on the judiciary, and restriction of civil liberties. Nothing about his siblings’ or their spouses’ occupations (accountant, teacher, veterinarian, administrative assistant, physician, engineer) suggests any security, intelligence, or military duties. Nor is there any evidence contradicting Applicant’s assertion that his relatives are not connected to the Egyptian government. But they are also aware that he has applied for a security clearance and little is known about their activities and associates. The risk of heightened influence is not fully mitigated where so little is known about his family members’ activities and associates and where Egypt has a poor human rights record.

Applicant’s vulnerability to undue foreign influence through his relatives in Egypt may nonetheless be mitigated by deep and longstanding relationships and loyalties in the U.S. (see 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”)). Applicant asserts an “ultimate” loyalty to the U.S., where he has continuously resided since 1987. He voluntarily acquired U.S. citizenship, and has a record of dedicated contributions to his defense contractor employer as shown by his performance evaluations since 2002. He is closest to his two children who are U.S. citizens and reside in the U.S. His primary concern is their welfare. The State Department reports that the Egyptian government considers all children born to Egyptian fathers to be Egyptian citizens, even if they were not issued an Egyptian birth certificate or a passport. In the event Egypt was to impose on his children, including on his daughter in Egypt, an obligation of their Egyptian citizenship, I am not certain that he could be counted on to resolve any conflict in favor of the U.S. without any regard to his children’s interests. Furthermore, he presented an expired Egyptian passport when entering Egypt on all his recent trips. While he did not renew his Egyptian passport after it expired, his use of the expired passport to avoid having to obtain a visa on his U.S. passport is not reflective of a “deep and longstanding” loyalty to the U.S. Based on the totality of the circumstances presented, I find neither AG ¶ 8(a) nor AG ¶ 8(b) apply.

AG ¶ 8(f) (“the value or routine nature of the foreign business, financial, or property interests is such that they are unlikely to result in a conflict and could not be used effectively to influence, manipulate, or pressure the individual”) could apply. He testified he did not know the value of his share in the family home in Egypt. Assuming the foreign property is an unlikely source of influence, manipulation, or pressure, it would not be sufficient to overcome the foreign influence concerns that exist because of his strong ties to his family members who are Egyptian citizens and/or residents.

### **Guideline C—Foreign Preference**

When an individual acts in such a way as to indicate a preference for a foreign country over the U.S., then he or she may be prone to provide information or make decisions that are harmful to the U.S. (AG ¶ 9). A citizen of Egypt from birth and of the U.S. since February 1993, Applicant did not renew his Egyptian passport after it expired in December 1992. Yet on all his trips to Egypt thereafter, he presented it to border control at the Egyptian airport to prove his birth in Egypt, which he believed was required to avoid obtaining a visa on his U.S. passport. Applicant’s U.S. passport contains several stamps from Egyptian border control (Ex. 3, Ex. B) that confirm he also presented his U.S. passport to enter Egypt. Unbeknownst to Applicant before March 2008, his U.S. passport would suffice for entry without a visa since it confirms his birth in Egypt. It is not clear whether there was a change in Egyptian law or this was always the case. Given Applicant’s intent in using the expired Egyptian passport was to obtain a benefit of his foreign citizenship (see AG ¶ 10(a) (“exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member”)), it raises concerns that he could be prone to make decisions contrary to the interests of the U.S.

AG ¶ 11(a) (“dual citizenship is based solely on parents’ citizenship or birth in a foreign country”) applies in that Applicant’s Egyptian citizenship is based on his birth there. While the U.S. government does not encourage its citizens to remain dual nationals because of the complications that might ensue from obligations owed to the foreign country, the Department of Defense does not require the renunciation of foreign citizenship to gain access. Nonetheless, there must be adequate assurances that a dual citizen will not actively exercise or seek the rights, benefits, or privileges of that foreign citizenship. Applicant could have renewed his Egyptian passport after he became a naturalized citizen but chose not to. His use of the expired Egyptian passport was for personal convenience, rather than an act of deliberate preference for Egypt. Applicant submits that he is willing to renounce his Egyptian citizenship for his job. AG ¶ 11(b) (“the individual has expressed a willingness to renounce dual citizenship”) applies, but it is entitled to less weight if it is in any way conditional. A promise to renounce is not a substitute for concrete steps taken to achieve that end. Applicant has not shown that he has commenced the process of renunciation, but at his hearing, he tore pages out of his expired Egyptian passport to confirm that he can be counted on to refrain from using it again. He has sufficiently mitigated the foreign preference concerns.

## 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) the 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

The salient issue in the security clearance determination is not in terms of loyalty or allegiance, but rather what is clearly consistent with the national interest. See Executive Order 10865, Section 7. An applicant may have the best of intentions and yet be in an untenable position of potentially having to choose between a dear family member and the interests of the U.S. Applicant maintains relationships with his mother, siblings, and daughter #1, all resident citizens of his native Egypt. Egypt is a strategic ally of the U.S., and it has little tolerance for terrorism. At the same time, it has a poor human rights record. Although Applicant has resided in the U.S. for some 20 years, he retains strong ties to Egypt, albeit primarily family. He is a citizen of Egypt and of the U.S., married and divorced his second and third wives in Egypt, and travels to Egypt to visit his family members. He has significant family ties here as well, most notably his two children, but based on U.S. State Department reports, they are considered to be citizens of Egypt as well. Despite his favorable work record, I am unable to conclude at this time that it is clearly consistent with the national interest to grant Applicant access to classified information due to unmitigated foreign influence concerns.

### Formal Findings

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

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant

Subparagraph 1.d:	For Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline C:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant

### **Conclusion**

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

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ELIZABETH M. MATCHINSKI  
Administrative Judge