



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



In the matter of:)
)
) ISCR Case No. 08-06795
)
Applicant for Security Clearance)

Appearances

For Government:
John B. Glendon, Esq., Deputy Chief Department Counsel
Raashid S. Williams, Esq, Department Counsel

For Applicant:
Christopher Graham, Esq.

January 27, 2012

Decision

MENDEZ, Francisco, Administrative Judge:

Applicant mitigated the Foreign Influence concern raised by his familial ties to Pakistan. He has been working as a Government contractor in Afghanistan for nearly seven years. His efforts have directly saved the lives of U.S. and NATO troops. He has come under enemy fire, and he continues to place his life at risk in support of the vital U.S. national security interests in Afghanistan. Clearance is granted.

Statement of the Case

On September 8, 2005, Applicant submitted a security clearance application (SCA). He fully disclosed his family in Pakistan on his SCA. He has been working as a DoD contract linguist in Afghanistan ever since, except for a short two month period in late 2007 when he changed employment.

On May 19, 2011, the Defense Office of Hearings and Appeals (DOHA) made a preliminary determination to deny Applicant access to classified information.¹ The basis for this decision is set forth in a Statement of Reasons (SOR) that alleges the security concern under Guideline B (Foreign Influence). Applicant responded on September 26, 2011 (Answer). He admitted that his mother, two brothers, and three of his sisters, as well as his married siblings' respective spouses, are resident-citizens of Pakistan. (SOR ¶¶ 1.a through 1.d). He denied the other SOR allegations (SOR ¶¶ 1.e through 1.i), and requested a hearing.

On July 19, 2011, Department Counsel indicated the Government was ready-to-proceed. After coordinating with the parties, I scheduled the hearing for September 1, 2011.² At hearing, Department Counsel offered Government Exhibits (GE) 1 through 12, which were admitted into evidence without objection. Department Counsel also submitted GE I through VIII for administrative notice regarding Pakistan.³ Applicant appeared at the hearing with his counsel, called his facility security officer (FSO) as a witness, and testified on his own behalf. He offered Applicant's Exhibits (AE) A through J, which were admitted into evidence without objection. The transcript (Tr.) was received on September 12, 2011.

Evidentiary Issue

GE 11 and 12, Applicant's selective service record and card, were admitted without objection. Department Counsel extensively questioned Applicant about purported discrepancies between these documents and his SCA, specifically as it relates to his date of birth and social security number. (Tr. at 33 – 42). As there was no SOR allegation regarding these matters, I allowed such inquiry for the limited purpose of testing Applicant's credibility and mitigation case.⁴

The evidence established that Applicant's former FSO had typed in Applicant's date of birth incorrectly on the SCA. Applicant corrected this information during a background interview in April 2009. (GE 5 at 1). Applicant voluntarily produced his social security card at hearing. The number reflected on Applicant's social security card and his SCA are the same. (Tr. at 102 – 103).

¹ This action was taken pursuant to Executive Order (EO) 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 Adjudicative Guidelines (AG) implemented by the Department of Defense on September 1, 2006.

² As a time-management tool, I issued a prehearing order requiring the parties to serve one another their anticipated exhibits prior to the hearing. The parties complied.

³ Department Counsel submitted a summary of facts from GE I - VIII that the Government asks I take administrative notice. The facts administratively noticed are set forth in my findings of fact. I note that vast parts of the copies of administrative notice documents that were submitted are illegible.

⁴ See generally ISCR Case No. 10-00922 at 3 (App. Bd. Nov. 3, 2011).

At the conclusion of the hearing, I provided the Government the opportunity to amend the SOR to address any concerns they had regarding Applicant's selective service record and SCA, and in order to provide Applicant fair notice to address said concerns.⁵ Department Counsel responded that "the Government doesn't believe the potential falsifications or discrepancies warrant an amendment of the SOR."⁶

Findings of Fact

Immigrating to the U.S.

Applicant is 36 years old. He was born, raised, and educated in Pakistan. His father, who was an officer in the Pakistani army, passed away when he was 13 years old. After his father passed away, Applicant's uncles financially supported him and his family. Applicant's uncles are Danish citizens, residing in Denmark. One of his uncles owns the home that Applicant was raised in, and his mother still resides in. Applicant met his wife in 1998 through an aunt. Applicant's wife and his aunt are U.S. citizens, residing in the United States. Applicant and his wife started a long-distance relationship by telephone. They met in person in January 1999 and two-weeks later were married in Pakistan. Applicant received his visa and immigrated to the U.S. in May 2000. Between the time of his marriage and immigrating to the United States, Applicant operated a family business, but it was not financially successful. During this period, Applicant was supported by his Danish uncles. He was granted U.S. citizenship in 2004.⁷

Foreign Family and Friends

Applicant's mother is a citizen of Pakistan. She spends about half the year living in the United States, and the other half of the year in Pakistan. She is a woman of limited means, and is financially supported by Applicant and his siblings. Applicant is close to his mother. He speaks to her frequently by phone and shared a credit card account with her.⁸ (SOR ¶ 1.a). He did not receive anything from the estates of his grandmothers when they died, and does not expect to inherit from his mother's meager estate when she dies.⁹ (SOR ¶ 1.f).

⁵ ISCR Case No. 10-08560 at n. 3 (App. Bd. Dec. 5, 2011); ISCR Case No. 04-08547 (App. Bd. Aug. 30, 2007).

⁶ Tr. at 122-123. Applicant provided the Government his selective service card in July 2008, and he was interviewed thereafter on two separate occasions. I must presume the Government investigated this matter thoroughly in the three years leading up to the hearing. ISCR Case No. 07-18324 at 6 (App. Bd. Mar. 11, 2011).

⁷ GE 1; GE 5; Tr. at 42-56, 57-70.

⁸ Tr. at 22-23, 61-63; Answer, GE 1 at 20, GE 2 at 2; GE 5 at 2; GE 7, *Foreign Influence (FI) Questions*; GE 8, 4/10/08 *Special Interview* at 3; GE 9; GE 10 at 7-8.

⁹ Tr. at 27-28; Answer.

Applicant's two brothers are resident-citizens of Pakistan. One is an officer in the Pakistani military, assigned to a civil engineering unit doing reconstruction work. He holds a rank below Colonel. He is married, and his wife is also a resident-citizen of Pakistan. Applicant's other brother currently works for a private cell phone company, but previously worked as a contractor for the Pakistani government. Applicant is not as close to his brothers as he is to his mother. He does speak with them by phone, has visited with them when he has traveled to Pakistan, and shared a credit card account with one of his brothers.¹⁰ (SOR ¶¶ 1.b and 1.d).

Three of Applicant's four sisters are resident-citizens of Pakistan. Two of these sisters work for local schools in Pakistan. The other does not have a job outside the home and is married to a resident-citizen of Pakistan. Her husband works for the same cell phone company as Applicant's brother. Applicant is in regular contact with his middle sister in Pakistan, who keeps him informed of his mother's wellbeing. He speaks less often to his other two sisters in Pakistan.¹¹ (SOR ¶¶ 1.c and 1.d).

Applicant's fourth sister is a U.S. citizen, living in the United States. Applicant's mother lives with her when she visits the U.S. Applicant's sister is married and her husband is a U.S. citizen. He holds a security clearance and is a Government contractor working in Afghanistan. In late 2007, when Applicant was in between jobs, he and his brother-in-law tried to start their own business as Government contractors in Afghanistan. The business never got off the ground due to the lack of adequate financial backing.¹² (SOR ¶ 1.e).

Applicant is close to a cousin who is a U.S. citizen. Several years ago, Applicant borrowed a significant amount of money from his cousin to pay-off some personal debt. Applicant repaid his cousin this loan, and recently lent his cousin about \$15,000 so his cousin could purchase a condo in the United States. A few days before the hearing, this loan was repaid. Applicant's cousin holds a security clearance and is currently working for a Government contractor in Afghanistan.¹³ (SOR ¶ 1.i).

Applicant has been able to save a significant amount of money over the past six years and is now in a position to financially assist his family. Altogether, he has lent his family about \$50,000. He does so in part to pay back his family, including one of his Danish uncles, for supporting him during his time of need.¹⁴

¹⁰ Tr. at 23-24, 63-64, 100-101; Answer, GE 1 at 21-22, GE 2 at 1-3; GE 5 at 2-3; GE 7, *FI*; GE 8, 4/10/08 *Special Interview* (SI) at 3-4; GE 9; GE 10 at 8.

¹¹ Tr. at 24-26, 65; Answer, GE 1 at 22-23, GE 5 at 3; GE 7, *FI*; GE 8, SI at 3-5; GE 9.

¹² Tr. at 26, 101-102; Answer, GE 1; GE 5; GE 8.

¹³ Tr. at 82-85, 91, 109, 111-112; Answer; GE 2; GE 5; GE 9. Applicant's past financial problem was not alleged as a concern. I did not consider it for anything other than as it relates to Applicant's relationship with his cousin.

¹⁴ GE 2 at 2; GE 5 at 10-11; Tr. at 108-109. See also GE 3 and 4.

Applicant became friends with his barber while assigned to Afghanistan. She is from Country Y and is a contract barber for NATO working in Afghanistan. She works on one of the U.S. military installations and was screened by the Government before being allowed to work on the installation. For a period of time, she served as a Government contractor escorting foreign nationals onto a U.S. military installation in Afghanistan. Applicant testified that his relationship with this woman is platonic.¹⁵ (SOR ¶ 1.g).

Applicant has a childhood friend who is a resident-citizen of Pakistan, and lives close to his mother's house in Pakistan. Applicant is unsure what his friend does for a living, but he previously worked for a cell phone company in Pakistan. His friend never worked for the Pakistani government or military. Applicant's contact with this childhood friend has been limited and he has not spoken to him in quite some time. He has never discussed his work for the U.S. Government with his childhood friend. Whenever his friend asked what he did for a living, he would merely say that he was working for a casino in the U.S.¹⁶ (SOR ¶ 1.h).

Applicant last traveled to Pakistan in 2007, while in between Government contracting jobs. He visited his family while in Pakistan. He has also traveled extensively. He has reported his foreign travel to his FSO, on his SCA, and during his background interviews.¹⁷ During one background interview, Applicant stated that he will report any attempt to influence him through his family to the proper authorities, as follows:

I have no sympathy for any other country or groups that would do harm to the US or our allies. Even though my family still lives in Pakistan, my loyalty is to the US. If I learned that my family's welfare could be in danger based on my position, I would do everything I could to help them but my efforts would be through the appropriate channels. I would first report the issue to my security officer.¹⁸

Service as a Linguist: 2005 – Present

Applicant started working for Government Contractor A (GCA) in May 2005. He was assigned to a NATO military unit in Afghanistan. During this period, he accompanied his military unit on missions in the field two to three times a month, spending up to 10 to 15 days a month in the field. On a number of occasions, Applicant saved the lives of members of his unit by listening in on enemy radio traffic and alerting his unit when the enemy was attempting to ambush them. Applicant and his unit were ambushed by the enemy on one occasion and the convoy he was riding in took direct

¹⁵ Tr. at 28-30, 70-81, 108; GE 2 at 3; GE 5 at 5-7, 13; GE 7, *Sexual Behavior*; GE 9.

¹⁶ Tr. at 30; Answer, GE 5 at 11.

¹⁷ GE 1; GE 5 at 6-7, 13; GE 9; GE 10; Tr. at 80.

¹⁸ GE 5 at 8. See also GE 10.

fire. His employment with GCA was made more difficult by the lack of adequate vacation time to return home to see his wife, which strained his marriage to the point of it almost dissolving. He voluntarily left GCA's employment in October 2007.¹⁹

Applicant underwent a counterintelligence (CI) security screening on August 9, 2007. This CI screening expanded upon the information Applicant had previously provided in his SCA and delved more fully into other potential areas of concern. Applicant fully discussed his foreign connections, including his family in Pakistan.²⁰ Applicant stated that he would immediately report to his boss if he were ever approached by a foreign government, foreign intelligence or security service, or terrorist organization. He also stated that if he were captured by the enemy or terrorist organization, he would protect U.S. secrets "with his life."²¹ The Government investigator concluded that Applicant "speaks excellent English . . . as if it were his first language even though Candidate was born and raised in Pakistan. . . . Candidate showed no sign of deception during subject interview . . . [he] displayed little or no hesitation while discussing the details of his personal life." The investigator went on to recommend Applicant for a security clearance, as long as the criminal background and credit checks did not reveal any derogatory information.²²

Applicant began working for Government Contractor B (GCB) in January 2008. He was assigned as a linguist working at a U.S. military installation in Afghanistan. Applicant submitted an updated SCA when he began working for GCB. Applicant requires a security clearance because it is a condition of his employment.²³

Applicant no longer accompanies troops into the field, but has been under constant attack from the enemy at his current U.S. military base. At least once a week, the base is hit by enemy rockets and mortars. The shelling has come as close as 30 meters from his office. Applicant works long hours and lives on base in a GCB provided trailer. He provides vital support to the base in its screening and CI efforts. He cannot leave the base because it is far too dangerous as it is well known by the local populace that he works for the United States.²⁴

¹⁹ Tr. at 21-22, 94-98, 112-113; GE 5 at 6-7. Applicant did not accept a follow-on contract with GCA because they wanted to place him with a special operations unit that engages in the most dangerous operations. He is unwilling to risk his life so brazenly, but was willing to return to his NATO unit or take on other dangerous assignments in Afghanistan. Such decision does not detract from his service.

²⁰ GE 9 and 10.

²¹ GE 10 at 11, Q. 76 and 78.

²² *Id.* at 2-3.

²³ Tr. at 18-20, 94, 118. Applicant's FSO testified that he had a copy of Applicant's current 2008 SCA. Tr. at 119. Neither side provided a copy of this more recent SCA.

²⁴ Tr. at 22, 99, 103-108; GE 5 at 12.

Several individuals who have served with Applicant in Afghanistan provided character letters in support. Each speaks to Applicant's exemplary work ethic, dedication to the mission, and irreplaceable linguistic skills that has provided for the security of U.S. and NATO troops. He has received a number of certificates of appreciation for his service.²⁵ A Vice President for GCB, who has 32 years of experience in the intelligence and security fields and was Applicant's manager in Afghanistan, states:

I first met (Applicant) . . . in January 2008. (Applicant) was one of six American interpreters assigned to my project, but immediately he was the stand out of the group. . . . (Applicant) is the most conscientious and diligent interpreter on my staff. . . . Armed with multi-lingual abilities in Pashto, Urdu, and Hindi, in addition to English . . . (he) was quick to point out inconsistencies in applications, noted falsifications on official documents . . . (He) took on a personal obligation to ensure that all persons applying for [sic] were doing so legitimately and correctly. (Applicant) was responsible for identifying and effectively stopping several attempts by banned individuals trying to circumvent our security processes. (He) has a high sense of patriotism to the United States. He has never tolerated anyone to speak ill of his adopted country and would be the first to squash any anti-American sentiment . . . I have watched and managed many individuals who work in the contracting world, but there are very few that are as committed as (Applicant) . . . He is not chasing a contractor's paycheck, he is looking after his (GCB) family and for the greater good of the lives of those who live and work at (the base).²⁶

Applicant's FSO testified that Applicant was one of the first individuals GCB hired, and they have continued to employ him, even without the necessary security clearance, because he is an exemplary employee. The FSO further testified that it is difficult to find qualified linguist for this project. Applicant has referred a number of excellent candidates that GCB has hired. The FSO "wholeheartedly" recommends Applicant for a security clearance.²⁷

Applicant and his spouse have resided at the same address in the U.S. since 2001. It is a home that is owned by Applicant's uncle and aunt, who are U.S. citizens and first introduced Applicant to his future wife. He has a substantial amount of money saved in a U.S. bank account. It is a joint account with his wife and she manages the couple's finances. He has also saved some money through a 401K account. He does not own any foreign property and has no foreign financial interest.²⁸ He is willing "to

²⁵ AE A – J.

²⁶ AE A. See also AE E (Applicant's work directly contributed to protecting service members and contractors assigned to a forward operating base in Afghanistan).

²⁷ Tr. at 114-121.

²⁸ Tr. at 67-70, 91-93, 109; GE 1; GE 7.

undergo a polygraph examination to satisfy any questions regarding (his) suitability for a position of trust.”²⁹

Pakistan

Pakistan is a parliamentary federal republic that recently went through successful democratic elections. It is a developing nation, which is still dealing with natural disasters that devastated parts of the country in 2005 and 2010. The core of Al-Qa’ida (AQ) is based in Pakistan and its former leader Osama bin Laden was killed by U.S. forces in Pakistan in 2011. AQ, the Taliban, and other militants are operating from safe havens within Pakistan. According to U.S. intelligence, Pakistani-based militant groups and AQ are coordinating their attacks inside Pakistan from the relative safety of these safe havens. The presence of these groups poses a potential danger to U.S. citizens throughout Pakistan. These groups specifically target U.S. citizens and other Western interest, and have successfully carried out attacks and kidnappings against U.S. citizens. They have also committed major terrorist attacks against the Pakistani government and its citizens. As for the Pakistani government, the U.S. State Department has noted that elements within the government continue to commit major human rights abuses, including extrajudicial killings, disappearances, and torture. The failure to prosecute these abuses has led to a culture of impunity.³⁰

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense 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 Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.14. On the other hand, an applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts

²⁹ GE 2 at 4.

³⁰ GE I – VIII. See also GE 5 at 12 (Applicant states that he does not “consider any portion of Pakistan to be safe”).

admitted by the applicant or proven by Department Counsel.” Directive ¶ E3.1.15.³¹ An applicant has the ultimate burden of persuasion to obtain a favorable security decision. In resolving this ultimate question, an administrative judge must resolve “[a]ny doubt concerning personnel being considered for access to classified information . . . in favor of national security.” AG ¶ 2(b).

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. “A clearance adjudication is an applicant’s opportunity to demonstrate that, prior to being awarded a clearance, he (or she) actually possesses the judgment, reliability, and trustworthiness essential to a fiduciary relationship with this country.”³²

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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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.”

Analysis

Guideline B, Foreign Influence

The foreign influence concern is set forth at AG ¶ 6, as follows:

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.

³¹ ISCR Case No. 11-00391 (App. Bd. Dec. 1, 2011) (“Once an applicant’s SOR admissions and/or the Government’s evidence raise a security concern, the burden of persuasion shifts to the applicant to mitigate the concern.”).

³² ISCR Case No. 10-09986 at 3 (App. Bd. Dec. 15, 2011).

An applicant's familial ties to a foreign country can raise the foreign influence concern. There is no *per se* rule against applicants with familial ties to a foreign country, even countries that contain elements, within and outside the foreign government, hostile to the vital security interest of the United States. Instead, an applicant with familial ties to such a country bears a heavy burden in mitigating the foreign influence concern.³³

In addressing the foreign influence concern, key factors an administrative judge must consider are: the foreign government involved, the intelligence gathering history of that government, the country's human rights record, and the presence of terrorist activity in that country.³⁴

Applicant's cousin and brother-in-law do not raise the foreign influence concern. They are both U.S. citizens, who have been granted security clearances by the United States, and work as Government contractors in Afghanistan. As for Applicant's barber, the Government stated its concern was due to the fact that she resides in Afghanistan, and Applicant has frequent contact with her in Afghanistan. (Tr. at 127-128). However, she is a NATO contractor supporting the U.S.-led war effort in Afghanistan. She has been screened by the Government, and previously was in charge of escorting individuals onto a U.S.-military installation. The Government failed to establish that Applicant's contact with his barber creates a heightened risk of foreign exploitation that is different from his contacts with others he serves with in Afghanistan. Applicant's relationship with his old childhood friend also does not raise the foreign influence concern, because their bond is no longer sufficiently close that it could be used by a foreign power or entity to manipulate or induce him. Accordingly, I find in Applicants favor as to SOR ¶¶ 1.e, 1.g, 1.h, and 1.i.³⁵

On the other hand, Applicant's familial ties to Pakistan through his mother, two brothers, and three sisters, coupled with Pakistan's "human rights record, the presence of terrorist activity there, and other geopolitical factors," squarely implicates the foreign influence concern.³⁶ His frequent contact with, and deep connections to, these family members also establishes the following disqualifying conditions under 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

³³ ISCR Case No. 01-26893 at 10 (App. Bd. Oct. 16, 2002) ("As a matter of common sense and sound risk management under the 'clearly consistent with the national interest' standard, an applicant with immediate family members living in a country hostile to the United States should not be granted a security clearance without a very strong showing that those family ties do not pose a security risk.").

³⁴ ISCR Case No. 09-05812 (App. Bd. Dec. 1, 2011) (heightened risk of foreign influence established where applicant's family members resided in a country that has trouble with terrorism and history of human rights abuses).

³⁵ I also find for Applicant as to SOR ¶ 1.f, because the potential inheritance he might receive from his mother's meager estate is simply insufficient to raise a concern.

³⁶ ISCR Case No. 11-01920 at 2 (App. Bd. Dec. 8, 2011).

foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information; and

AG ¶ 8 sets forth a number of mitigating conditions that could mitigate the foreign influence concern. I have considered all the mitigating conditions and find that only AG ¶ 8(b) warrants discussion. AG ¶ 8(b) states:

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.

In addressing AG ¶ 8(b), the Appeal Board has held that

Generally, an Applicant's statements, by themselves, as to what he would do in the face of threats by a foreign government or entity are entitled to little weight. On the other hand, an applicant's proven record of action in defense of the U.S. is very important and can lead to a favorable result for an applicant in a Guideline B case. In this case, Applicant has served the U.S. military as a translator in dangerous circumstances in Afghanistan and has risked his life to protect American personnel there.³⁷

Applicant has saved the lives of NATO troops in Afghanistan, he has been under direct fire when his convoy was ambushed, his work has directly provided for the safety of American and NATO troops, and he has lived with constant shelling over the past few years – all in support of the U.S.-led mission in Afghanistan. However, such service does not automatically trump the Guideline B concern as argued by Applicant's counsel. (Tr. at 129). Instead, it is a key factor that must be taken into account in addressing the foreign influence concern.

Applicant immigrated to the United States 12 years ago, he took the Oath of Allegiance upon becoming a U.S. citizen in 2004, and has been married to a U.S. citizen and resided at the same address in the U.S. for over a decade. His assets are in the U.S., and his wife manages their finances. At the same time, Applicant's bonds to

³⁷ ISCR Case No. 07-00034 at 2 (App. Bd. Feb. 5, 2008) (internal citations omitted). See also ISCR Case No. 06-25928 (App. Bd. Apr. 9, 2008) (adverse decision remanded because judge apparently failed to consider that applicant's "compliance with security procedures and regulations occurred in the context of dangerous, high-risk circumstances in which the applicant had made a significant contribution to the national security."); ISCR Case No. 05-03846 at 6 (App. Bd. Nov. 14, 2006) (same).

his family in Pakistan are long and deep, especially when it comes to his mother. He speaks with her frequently, supports her financially, and even had a joint credit card account with her. His brother is an officer in the Pakistani military. As Applicant acknowledges, there is no place in Pakistan that is safe. The risk of foreign exploitation exists. However, none of Applicant's family members hold high government positions or otherwise stand out as targets to hostile forces within Pakistan.³⁸ For the past six years, the same risk of foreign exploitation identified in the SOR has existed, and Applicant's fidelity to the U.S. and its mission in Afghanistan has never once faltered or been questioned by those with whom he serves.

Although Applicant may not have been born in the United States, he has demonstrated, through his service in Afghanistan, that his commitment to the U.S. is no less than those born and raised in this country. He has voluntarily agreed to CI screening and numerous background investigations, in order to prove his suitability to hold a security clearance. The agent who conducted his CI screening, as well as those who have served with him in Afghanistan, all found him to be a dedicated American and resolute in his resolve to protect the nation and its secrets. He has fully complied with reporting requirements throughout the security clearance process and those imposed by his employer. Over the course of several interviews and in response to a lengthy interrogatory, Applicant has freely and fully discussed his foreign connections. In light of the foregoing, I find that Applicant would resolve any attempt to influence him through his family members in Pakistan in favor of national security. Applicant established AG ¶ 8(b) and, thereby, mitigated the foreign influence concern.

Whole-Person Concept

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all the relevant circumstances. An administrative judge should consider the nine factors listed at AG ¶ 2(a).³⁹ I incorporate my foreign influence analysis herein and note some additional whole-person factors. Applicant has volunteered to put himself in harms way in order to support the vital national security interests of the United States in Afghanistan. As relayed by his former manager, Applicant's motivation is not to chase a contractor's paycheck, but instead to provide for the safety and security of those with whom he serves in Afghanistan. His service has not come without sacrifice, including almost losing his marriage due to the lack of adequate vacation time to return home on

³⁸ *Contrast with* ISCR Case No. 09-07066 (App. Bd. Jul. 26, 2011) (father held important position in the embassy of a foreign country); ISCR Case No. 09-06457 (App. Bd. May 16, 2011) (prominent father in Afghan government).

³⁹ (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.

leave to visit his wife. He has understood the Government's need to peer into his foreign relationships and has always complied with any request for information. Even after numerous interviews over the past seven years, Applicant still stands ready to prove his suitability by offering to take a polygraph. These whole-person factors, in conjunction with the favorable matters noted above, fully mitigate the foreign influence concern. Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance.

Formal Findings

I make the following formal findings regarding the allegations in the SOR:

Paragraph 1, Guideline B (Foreign Influence): FOR APPLICANT

Subparagraphs 1.a through 1.i: For Applicant

Conclusion

In light of the record evidence and for the foregoing reasons, it is clearly consistent with the national interest to grant Applicant access to classified information. Applicant's request for a security clearance is granted.

Francisco Mendez
Administrative Judge