



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



In the matter of:)	
)	
)	ISCR Case No. 09-01966
)	
Applicant for Security Clearance)	

Appearances

For Government:
 Julie R. Mendez, Esquire, Department Counsel
 For Applicant: *Pro se*

March 31, 2011

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ Applicant’s clearance is denied.

On 8 March 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F (Financial Considerations), C (Foreign Preference), B (Foreign Influence), and E (Personal Conduct).² Applicant timely answered, and requested a hearing. DOHA assigned the case to me 14 July 2010, and I convened a hearing 17 August 2010. DOHA received the transcript (Tr.) 24 August 2010.

¹Consisting of the transcript (Tr.), Government exhibits (GE) 1-7, and Applicant exhibits (AE) A-D.

²DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant admitted SOR allegations 1.a, 1.b, 1.c, 3.a, 3.b, 3.c, 3.d, 3.e, 3.f, 4.b, and 4.c. He denied allegations 1.d, 1.e, 2.a, and 4.a. He is a 57-year-old security officer employed by a defense contractor since October 2007. However, he has been employed as a security officer, sometimes working for two employers, since February 2003. It appears he was unemployed for many years before January 2001. He has not previously held a clearance.

Applicant was born in Liberia in June 1953. He grew up there, married, and raised a family. In the early 1990s, Applicant held three senior government positions by appointment of the Liberian president. As a consequence of these positions, Applicant held a Liberian diplomatic passport.

In 1992, after receiving death threats during a time of political turmoil in Liberia, Applicant fled Liberia for the U.S. where he petitioned for, and obtained, asylum. In 1995, he obtained asylum for his wife and his minor children. He became a naturalized U.S. citizen in November 2007. He obtained his first U.S. passport in October 2008.

Applicant's Liberian diplomatic passport had an original expiration date of July 1992. However, for reasons that do not appear in the record, the Liberian embassy extended the validity of the passport for three years in February 1993, for another three years in February 1997, and for an additional year in September 2003.

Applicant's adult son and daughter and two half brothers are resident citizens of Liberia. None of them have any connection to the Liberian government. Applicant has regular contact with his children; he has very little contact with his half brothers. Applicant's wife is a Liberian citizen, and legally resident in the U.S. Her U.S. citizenship application is pending.

Applicant is founder and bishop of a church he established in January 2001. The church maintains buildings in the U.S. and in Liberia. Applicant also owns a partially-completed home in Liberia valued at \$80,000–125,000. Applicant stays there when he is in Liberia, and he also uses it as lodging for visiting clergymen to spare them the hotel expense. Applicant traveled to Liberia in 2002 and 2008, both times related to his church.

On Applicant's April 2008 clearance application (GE 1), he failed to disclose his employments with the Liberian government. Despite the clear language of the question asking him if he had ever been employed by a foreign government, Applicant claimed he did not disclose the employments because he no longer held them. Applicant disclosed that he had held a foreign passport, but failed to disclose that it was a diplomatic passport and falsely claimed that he surrendered it to U.S. immigration officials when he became a U.S. citizen. Applicant disclosed he had owned a home in Liberia but (not alleged as a falsification in the SOR) did not disclose that he still owned the home. Indeed, his clearance application suggested he had not owned the home

since 1992. During a January 2009 interview with a government investigator about his clearance, Applicant claimed he surrendered his Liberian passport to the State Department when he got his U.S. passport in October 2008. Instead, he submitted his passport as part of the documentation to get his U.S. passport. The Liberian passport was returned to him in due course, and Applicant still has it, although it has again expired.

The SOR alleges, and government exhibits confirm, five delinquent debts totaling over \$21,000. Applicant denies two debts totaling less than \$200. He admits the rest. Applicant cites no particular causes for his indebtedness, other than a condition inherent in being a security officer, of not being scheduled for enough hours, even when working two jobs. The single biggest debt (SOR 1.a) is for a credit card that Applicant has used to pay church expenses. That debt has now grown to over \$18,000. In 2009, the creditor offered to settle the debt for \$9,000, paid in three equal monthly payments, but Applicant lacked the funds to take advantage of the offer (GE 4).

Applicant claims, without corroboration, to have reached repayment plans with some of his creditors. He documented one \$100 payment to the creditor at 1.b, but acknowledges (Tr. 49) that he only makes occasional payments. He claimed, without corroboration, to have agreed to make eight monthly payments of \$400 to the creditor at 1.b, but he also lacks the funds to make that payment.

Policies

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guidelines are Guideline F (Financial Considerations), Guideline C (Foreign Preference), Guideline B (Foreign Influence), and Guideline E (Personal Conduct).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, disputed facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the required judgment,

reliability, and trustworthiness of those who must protect national interests as their own. The “clearly consistent with the national interest” standard compels deciding any reasonable doubt about an Applicant’s suitability for access in favor of the Government.³

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant’s financial problems seem to be almost an inevitable consequence of his employment as a security officer and the inconsistent working hours available to him. Applicant has had financial problems for several years, and it seems he has little prospect for increased earnings that would allow him to meet his financial obligations.⁴

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple.⁵ He produced no evidence of circumstances beyond his control, and he has not acted responsibly in addressing his debts.⁶ He has received no credit or financial counseling, nor has he demonstrated that his financial problems are under control, or that he has a plan to bring them under control.⁷ He has not made a good-faith effort to satisfy his debts.⁸ I conclude Guideline F against Applicant.

The government did not establish a case for disqualification under Guideline C.⁹ Under U.S. immigration law, a legal permanent resident is required to maintain a valid foreign passport. It is not actually clear from the record that Applicant met this requirement, but there is no evidence that his foreign passport was valid after he obtained his U.S. citizenship, and he did not renew the passport after getting his U.S. citizenship. Further, none of the conduct alleged by the Government as evidence of dual citizenship, except for passive ownership of property in Liberia, occurred after Applicant

³ See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴ ¶ 19.(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

⁵ ¶ 20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁶ ¶ 20.(b) the conditions that resulted in the financial problem were largely beyond the person’s control . . . and the individual acted responsibly under the circumstances;

⁷ ¶ 20.(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

⁸ ¶ 20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

⁹ ¶ 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. This included but is not limited to: (1) possession of a current foreign passport; (b) action to acquire or obtain recognition of a foreign citizenship by an American citizen;

became a U.S. citizen.¹⁰ There is no evidence that Applicant is required to be a Liberian citizen to continue to own property there. None of the conduct cited by the Government suggests that Applicant has a preference for Liberia over the U.S. I resolve Guideline C for Applicant.

The Government established a case for disqualification under Guideline B, and Applicant only mitigated some of the security concerns. Under Guideline B (Foreign Influence), an applicant's foreign contacts and interests may raise security concerns if the individual 1) has divided loyalties or foreign financial interests, 2) may be manipulated or induced to help a foreign person, group, organization, or government in a way contrary to U.S. interests, or 3) is vulnerable to pressure or coercion by any foreign interest. Foreign influence adjudications 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, whether the country is known to target U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.¹¹ Evaluation of an individual's qualifications for access to protected information requires careful assessment of both the foreign entity's willingness and ability to target protected information, and to target expatriates who are U.S. citizens to obtain that information, and the individual's susceptibility to influence, whether negative or positive. More specifically, an individual's contacts with foreign family members (or other foreign entities or persons) raise security concerns only if those contacts create a heightened risk or foreign exploitation, inducement, manipulation, pressure, or coercion.¹²

In this case, the argument for disqualification under Guideline B is not persuasive regarding the citizenship of his spouse who resides in the U.S. as a legal permanent resident, his relatives who are resident citizens of Liberia, or his nearly-20-year-old employment by the Liberian government. Considering first the foreign country involved, the Government raised no concerns related to the Liberian government.

Considering Applicant's situation in relation to the Liberian government, the Government produced no evidence that there was any risk, much less a heightened risk, of foreign exploitation, inducement, manipulation, pressure, or coercion because of Applicant's limited family contacts in Liberia. None of the family members is connected to the Liberian government, and Applicant's government service there ended nearly 20 years ago. Applicant's wife is a legal permanent resident of the U.S. Consequently, there are no security concerns arising from these aspects of Applicant's association with Liberia. However, Applicant's decade-long religious ministry in Liberia, his travel to Liberia to further that ministry, and his maintaining his property there to further that

¹⁰ ¶ 11(c) exercise of the rights, privileges, or obligations of foreign citizenship occurred before the individual became a U.S. citizen or when the individual was a minor;

¹¹ ¶ 6.

¹² ¶ 7 (a).

ministry shows ongoing contacts with Liberia that heighten the risk that Applicant might be influenced to provide information to Liberia. I resolve Guideline B against Applicant.

The Government established a case for disqualification under Guideline E, and Applicant did not mitigate the security concerns. Applicants are expected to give full and frank answers during the clearance process. Applicant's failure to disclose his past employment by the Liberian government and his misrepresentation of the status of his Liberian diplomatic passport, both on his clearance application and during his subject interview, constitute a deliberate falsification or evasiveness inconsistent with the candor required of applicants.¹³

None of the Guideline E mitigating conditions apply. The concealed information was relevant to a clearance decision. Applicant did not disclose this adverse information until later in the clearance process.¹⁴ Applicant's failure to disclose this information demonstrates a lack of candor required of cleared personnel. The Government has an interest in examining all relevant and material adverse information about an applicant before making a clearance decision. The Government relies on applicants to truthfully disclose that adverse information in a timely fashion, not when they perceive disclosure to be prudent or convenient. Further, an applicant's willingness to report adverse information about himself provides some indication of his willingness to report inadvertent security violations or other security concerns in the future, something the Government relies on to perform damage assessments and limit the compromise of classified information. Applicant's conduct suggests he is willing to put his personal needs ahead of legitimate Government interests. I resolve Guideline E against Applicant.

A whole person analysis of the facts in this case requires no different result. Applicant's ongoing involvement with his religious ministry in Liberia, falsification of his clearance application regarding his past foreign connections to Liberia, and his continuing financial problems argue against granting Applicant's access to classified information.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-e:	Against Applicant
Paragraph 2. Guideline C:	FOR APPLICANT

¹³¶ 16.(a) deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;

¹⁴¶ 17(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

Subparagraph a:	For Applicant
Paragraph 3. Guideline B:	AGAINST APPLICANT
Subparagraphs a-b:	For Applicant
Subparagraphs c-d:	Against Applicant
Subparagraph e:	For Applicant
Subparagraph f:	Against Applicant
Paragraph 4. Guideline E:	AGAINST APPLICANT
Subparagraphs a-c:	Against Applicant

Conclusion

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge