



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



In the matter of:)	
)	
)	ISCR Case No. 10-03293
)	
Applicant for Security Clearance)	

Appearances

For Government: William T. O'Neil, Esquire, Department Counsel
For Applicant: *Pro se*

April 5, 2011

Decision

LAZZARO, Henry, Administrative Judge

Applicant mitigated the foreign influence concern that existed due to her family ties to Jordan. Clearance is granted.

On November 9, 2010, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant stating it was unable to find it clearly consistent with the national interest to grant or continue a security clearance for Applicant.¹ The SOR alleges a security concern under Guideline B (foreign influence). Applicant's response to the SOR was received by DOHA on December 20, 2010. Applicant admitted both SOR allegations and requested a decision based on the written record without a hearing.

¹ This action was taken under Executive Order 10865, DoD Directive 5220.6, dated January 2, 1992, as amended (Directive), and adjudicative guidelines which became effective within the Department of Defense for SORs issued after September 1, 2006.

Department Counsel prepared a File of Relevant Material (FORM) on January 6, 2011, which was mailed to Applicant on January 10, 2011. Applicant was notified she had 30 days from receipt of the FORM to submit her objections thereto or any additional information she wanted considered. Applicant acknowledged receipt of the FORM on February 6, 2011. On February 18, 2011, Applicant submitted a response to the FORM, which included three letters of recommendation. On February 28, 2011, Department Counsel executed a memorandum indicating he did not object to the admissibility of Applicant's submissions. The case was assigned to me on March 14, 2011.

Findings of Fact

Applicant's admissions to the SOR allegations are incorporated herein. In addition, after a thorough review of the pleadings and exhibits, I make the following findings of fact:

Applicant is a 50-year-old woman who has been employed as a linguist by a defense contractor since March 2009. She has worked with U.S. military forces serving in Iraq since April 2009. Applicant's duties as a linguist include traveling in military logistical convoys with U.S. military forces transporting supplies to soldiers living on joint security sites. The commanding officer of a U.S. Army command she supports wrote that Applicant has been willing to volunteer for dangerous missions throughout Iraq. Applicant has earned a reputation for being an outstanding translator whose integrity is unquestioned.

Applicant is a Jordanian citizen by birth. She has been a naturalized United States citizen since April 22, 1983. Applicant has been married to a United States citizen since September 1982. They were married in Jordan where Applicant's husband was employed by a United States government contractor at the time. He has worked for a government contractor since approximately 1977, and he currently is employed as a quality control/quality assurance manager.

Applicant lived in Saudi Arabia with her husband from approximately October 1998 until March 2003, and again from February 2005 until June 2005. While residing in Saudi Arabia, Applicant was employed as a part-time special education counselor from October 1998 until March 2003, and as a youth trip counselor from April 2001 until March 2003. Both positions were with the same company that employed Applicant's husband. She also worked part-time as a postal clerk at a United States postal facility in Saudi Arabia from April 2001 until March 2003. Applicant was unemployed from March 2003 until she began working for her current employer. Except for her brief residency in Saudi Arabia in 2005, Applicant resided in the United States from March 2003 until April 2009.

Applicant's current United States passport was issued in August 2007. She had a Jordanian passport that was issued in October 1999, which expired in September 2004. She surrendered that passport to her current employer to demonstrate her loyalty and allegiance to the United States. When Applicant was questioned in June 2009, she

stated she had not renounced her Jordanian citizenship because she had family living in Jordan and she had to remain a Jordanian citizen to receive any future inheritance. In her responses to the SOR and to the FORM, Applicant wrote that she is ready to renounce her Jordanian citizenship.

Applicant's father is deceased. Her mother is an 83-year-old naturalized United States citizen. Her mother owns a house in the United States, and she was residing with Applicant's brother, who is also a naturalized United States citizen, in the United States, until he began working as a linguist in Iraq. Applicant's mother relocated to Jordan to reside with Applicant's second brother, where she was admitted to a hospital in February 2010, with advanced cancer of the left breast.

Applicant's second brother is a citizen and resident of Jordan. He owns and/or manages a paint and building material business. Applicant's sister is a citizen and resident of Jordan. She is a homemaker. Applicant's brother and sister in Jordan have applied to immigrate to the United States with their families. The United States Department of State has acknowledged receipt of all documentation necessary to complete the National Visa Center's processing of their cases, and Applicant anticipates they will be allowed to immigrate to the United States in July 2011.

Applicant speaks with her mother and sister by telephone about once every two to three weeks. She speaks with her brother in Jordan by telephone about once every two to three months. Applicant visited her mother for about one week in Jordan in November 2010. Prior to that visit, Applicant last traveled to Jordan in March 2003.

Applicant opened a bank account in Jordan in 1998 with a deposit of \$100. She opened the account so she could make deposits into the account in the case of an emergency. She has not used the account or made any deposits into the account since it was first opened.

U.S. Department of State publications provide the following information about Jordan:

Relations between the United States and Jordan have been close for 6 decades, with 2009 marking the 60th anniversary of U.S.-Jordanian ties. U.S. policy seeks to reinforce Jordan's commitment to peace, stability, and moderation. The peace process and Jordan's opposition to terrorism parallel and indirectly assist wider U.S. interests. Accordingly, through economic and military assistance and through close political cooperation, the United States has helped Jordan maintain its stability and prosperity. (FORM Item I, p. 5)

The threat of terrorism remains high in Jordan. Transnational terrorist groups, as well as less sophisticated local elements, have demonstrated the capability to plan and implement attacks in Jordan. The Al-Qaida in Iraq network in particular continues to carry out terrorist activities against

U.S. and Government of Jordan (GOJ) targets in Jordan. (FORM Item II, p. 1)

The government respected human rights in some areas, but its overall record continued to reflect problems. The government restricted citizens' rights to change their government. . . . Domestic and international NGOs (nongovernmental organizations) reported cases of arbitrary deprivation of life, torture, poor prison conditions, impunity, arbitrary arrest and denial of due process through administrative detention, prolonged detention, and external interference in judicial decisions. Citizens continued to describe infringements on their privacy rights. (FORM Item III, p. 1)

Through both its public statements and its actions, the Jordanian Government demonstrated a solid commitment to countering terrorist groups and extremist ideologies. The Jordanian government continued its political and material support for the Palestinian Authority (PA) and for PA President Mahmoud Abbas. King Abdullah II routinely expresses backing for the peace process and for a negotiated settlement of the Israel-Palestine dispute. Jordan has facilitated the regional peace process by training five battalion-sized elements of the Palestine Security Forces at the Jordan International Police Training Center (JIPTC) outside Amman, including two such rotations in 2009. These Palestinian forces have since deployed throughout the West Bank, where their motivation and professionalism have earned praise from the different regional parties.

* * *

Jordan's security forces continued programs to prevent terrorist attacks in the country and to deny terrorists the use of its territory to launch attacks against its neighbors. . . .

In August, Jordan, with U.S. government support, hosted a conference establishing the Regional Biometric Partnership initiative, bringing together law enforcement, security, and forensic experts from twelve Middle Eastern countries. Jordan presented a tailored biometric software package and proposed the creation of a regional biometric database for known and suspected terrorists in the region to allow the efficient sharing of data between governments. The proposal won an endorsement in principal [sic] from other participants and could potentially do much to thwart terrorist travel. Jordan welcomed U.S. training and assistance designed to strengthen security at its ports of entry.

Jordan's security services remained intensely engaged against terrorist threats. As a result of their vigilance, several planned attacks were disrupted prior to execution. . . . (FORM Item IV, p. 3-4)

Policies

The Directive sets forth adjudicative guidelines to consider when evaluating a person's eligibility to hold a security clearance. Chief among them are the disqualifying and mitigating conditions for each applicable guideline. Each clearance decision must be a fair and impartial decision based upon relevant and material facts and circumstances, the whole person concept, and the factors listed in ¶¶ 6.3.1 through ¶¶ 6.3.6 of the Directive. Although the presence or absence of a particular condition or factor for or against clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance. Considering the evidence as a whole, Guideline B (foreign influence) with its disqualifying and mitigating conditions, is most relevant in this case.

The sole purpose of a security clearance decision is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.² The Government has the burden of proving controverted facts.³ The burden of proof in a security clearance case is something less than a preponderance of evidence,⁴ although the Government is required to present substantial evidence to meet its burden of proof.⁵ "Substantial evidence is more than a scintilla, but less than a preponderance of the evidence."⁶

Once the Government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against her.⁷ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.⁸ No one has a right to a security clearance⁹ and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."¹⁰ Any reasonable doubt about whether an applicant

² ISCR Case No. 96-0277 (July 11, 1997) at p. 2.

³ ISCR Case No. 97-0016 (December 31, 1997) at p. 3; Directive, Enclosure 3, Item E3.1.14.

⁴ *Department of the Navy v. Egan* 484 U.S. 518, 531 (1988).

⁵ ISCR Case No. 01-20700 (December 19, 2002) at p. 3 (citations omitted).

⁶ ISCR Case No. 98-0761 (December 27, 1999) at p. 2.

⁷ ISCR Case No. 94-1075 (August 10, 1995) at pp. 3-4; Directive, Enclosure 3, Item E3.1.15.

⁸ ISCR Case No. 93-1390 (January 27, 1995) at pp. 7-8; Directive, Enclosure 3, Item E3.1.15.

⁹ *Egan*, 484 U.S. at 528, 531.

¹⁰ *Id.* at 531.

should be allowed access to classified information must be resolved in favor of protecting national security.¹¹

Analysis

Guideline B, Foreign Influence

Foreign contacts and interests may be a security concern if the individual has divided loyalties or 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's mother, sister, and one of her two brothers are residents of Jordan. Applicant's mother is a United States citizen. Her sister and her brother who resides in Jordan are Jordanian citizens. Disqualifying Conditions (DC) 7(a): *contact with a foreign family member . . . 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.

Applicant has been married to a United States citizen since 1982. She became a naturalized United States citizen in April 1983, and her mother and one of her brothers have become naturalized United States citizens. Applicant's sister and brother who reside in Jordan have applied for visas to allow them to immigrate to the United States. Applicant anticipates their visa applications will be approved in July 2011. As a demonstration of her loyalty and allegiance to the United States, Applicant surrendered her expired Jordanian passport to her employer. She has expressed a willingness to renounce her Jordanian citizenship.

Applicant maintained long-term part-time employment with a government contractor and the U.S. Postal Service when she lived in Saudi Arabia while her husband was employed there. She has been serving with U.S. military forces in Iraq since April 2009. The letters of recommendation she submitted from people she has worked with in Iraq, including the commanding officer of the command to which she is assigned, establish that Applicant is considered to be an excellent interpreter with unquestioned integrity who is willing to place herself in harm's way to meet the linguistic needs of the U.S. Army.¹² Mitigating Condition (MC) 8(b): *there is no conflict of interest*,

¹¹ Egan, Executive Order 10865, and the Directive.

¹² When an "Applicant has repeatedly been willing to assume a high level of risk on behalf of the U.S., [his behavior] constitute[s] important evidence that Applicant's ties and sense of obligation to the U.S. could be sufficiently strong that he [could] be expected to resolve any conflict of interest in favor of the U.S. Directive ¶ E2.8(b). See ISCR Case No. 05-03846 at 6 (App. Bd. Nov 14, 2006) (Applicant's work as an

. . . because . . . the individual has such deep and longstanding relationships in the U.S., that the individual can be expected to resolve any conflict of interest in favor or the U.S. interest applies.

Jordan and the United States have maintained close relations for over 60 years. While the threat of terrorism remains high in Jordan, its security services remained intensely engaged against those threats. As a result of their vigilance, several planned attacks were disrupted prior to execution. Jordan, with U.S. government support, hosted a conference establishing the Regional Biometric Partnership initiative, bringing together law enforcement, security, and forensic experts from twelve Middle Eastern countries. Jordan proposed the creation of a regional biometric database for known and suspected terrorists in the region to allow the efficient sharing of data between governments. The proposal won an endorsement in principle from other participants and could potentially do much to thwart terrorist travel. Jordan welcomed U.S. training and assistance designed to strengthen security at its ports of entry.

Applicant has been a U.S. citizen for almost 30 years and there has been no attempt during that period by anyone or any entity in Jordan or elsewhere to exploit her relationship with her Jordanian relatives. MC 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. applies.*

I have considered all relevant and material facts and circumstances present in this case, the whole person concept, the factors listed in ¶ 6.3.1 through ¶6.3.6 of the Directive, and the applicable disqualifying conditions. Having done so, I conclude Applicant has mitigated the foreign influence security concern. She has overcome the case against her and satisfied her ultimate burden of persuasion. Guideline B is decided for Applicant. It is clearly consistent with the national interest to grant Applicant a security clearance.

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 B: FOR APPLICANT

Subparagraphs 1.a and 1.b: For Applicant

interpreter in Afghanistan occurred “in the context of dangerous, high-risk circumstances in which [he] made a significant contribution to the national security.”) ISCR Case No. 06-25928 at 3-4 (App. Bd. Apr 9, 2008).

Conclusion

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Henry Lazzaro
Administrative Judge