



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



In the matter of:

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Applicant for Security Clearance

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ISCR Case No. 10-05726

**Appearances**

For Government: Jeff Nagel, Esq., Department Counsel  
For Applicant: *Pro se*

07/31/2012

**Decision**

WESLEY, Roger C., Administrative Judge:

Based upon a review of the pleadings, exhibits, and testimony, I conclude that Applicant mitigated the security concerns regarding foreign preference and foreign influence. Eligibility for access to classified information is granted.

**Statement of the Case**

On January 31, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing reasons why DOHA could not make the preliminary affirmative determination of eligibility for granting a security clearance, and DOHA recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. 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 Adjudicative Guidelines (AGs) implemented by the Department of Defense on September 1, 2006.

Applicant responded to the SOR on March 14, 2011, and requested a hearing. The case was assigned to me on June 19, 2012, and was scheduled for hearing on June 25, 2012. The hearing was convened on that date. At hearing, the Government's case consisted of two exhibits (GEs 1-2). Applicant relied on two witnesses (including herself) and two exhibits (AEs A-B). The transcript (Tr.) was received on July 5, 2012.

Besides its four exhibits, the Government requested administrative notice of six documents pertaining to the country of Jordan: *Background Note: Jordan*, U.S. Department of State (March 2010); *Country Specific Information: Jordan*, U.S. Department of State (August 2010); *Human Rights Report: Jordan*, U.S. Department of State (March 2010); *Country Reports on Terrorism 2009, Chapter 2-Country Reports, Middle East and North African Overview* (August 2010); *Statement for the Record from the Counterintelligence Executive*, Before the House Judiciary Subcommittee on Immigration, Border Security and Claims (September 2005); *Annual Threat Assessment of Intelligence Community*, Director of National Intelligence (February 2008).

Administrative or official notice is the appropriate type of notice used for administrative proceedings. Administrative notice is appropriate for noticing facts or government reports that are well known. *See Stein*, Administrative Law, Section 25.01 (Bender & Co. 2006). For good cause shown, administrative notice was granted with respect to the above-named background reports addressing the geopolitical situation in Jordan. Administrative notice was extended to the documents themselves, consistent with the provisions of Rule 201 of Fed. R. Evid.

### **Summary of Pleadings**

Under Guideline B, Applicant allegedly (a) has family members who are citizens and residents of Jordan: two brothers and three sisters, and (b) traveled to Jordan in 2000 and 2003. Under Guideline C, Applicant allegedly applied for and was issued a Jordanian passport in 2000, even though she became a naturalized U.S. citizen in about 1993.

In her response to the SOR, Applicant admitted each of the allegations with explanations. She explained that all of her sisters and their spouses and children reside in the United States and hold green cards. She claimed she traveled to Jordan in 2000 to attend her youngest brother's wedding (her first visit to see her family in 13 years) and traveled to Jordan in 2003 with her husband for her vacations reasons. She claimed that she also traveled to Jordan in October 2009, in May 2010, and again in December 2010 for vacations with the full approval of her command while deployed in Iraq.

Applicant claimed she renewed her Jordanian passport to preserve her eligibility to inherit her parents' property (family home and inherited land). She explained that her parents have since become U.S. citizens, along with her two brothers, thereby mooting any inheritance interests she might have. And she claimed her Jordanian passport expired in 2005 and has not been renewed.

## Findings of Fact

Applicant is a 51-year-old translator for a defense contractor who seeks a security clearance. The allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### Background

Applicant immigrated to the United States in 1985 and became a naturalized U.S. citizen in October 2003. (GE 2; Tr. 62) She married in August 1985 and has three children from her marriage. (GE 1; Tr. 46-47) Her husband is a naturalized U.S. citizen and has an expired Jordanian passport. (Tr. 49) Applicant's children were all born in the United States. (Tr. 47-48) Only her daughter has a Jordanian passport. (Tr. 47) However, when she travels she always uses her U.S. passport. (Tr. 48)

Applicant became a translator in 2008. The compensation she received for her work helped her send her daughter to college. (Tr. 50) Since becoming a U.S. citizen, she retains her loyalties only for the United States. She makes these assurances with the acknowledgment that some Jordanians might see her as a traitor. While an interpreter for the United States on Iraq deployments, her loyalty, honesty, and dedication have never been questioned by military personnel she embedded with on her deployments. (Tr. 52-53)

Applicant applied for a Jordanian passport in May 2000 to preserve her inheritance eligibility rights to her grandfather's property in Jordan. (GE 2) Her parents immigrated to the United States in 1994 and have since become U.S. citizens. (Tr. 64) Her grandparents passed away before she was born, and their property interests were held in her father's name for many years. (Tr. 66) This property has since been divided between her father and his brother, and is no longer potentially available to Applicant under Jordan's inheritance laws. She cannot supply any value estimates of the property. (Tr. 66-67)

Applicant has no other property interests in Jordan and has not received any financial benefits from Jordan or any other country since she became a U.S. citizen. (Tr. 58-59) By contrast, she and her husband have considerable property interests in the United States. (Tr. 59-61)

In 2000, Applicant traveled to Jordan using her Jordanian passport and in 2003 using her U.S. passport. While in Jordan, in 2000 she renewed her Jordanian passport. She documents renouncing her Jordanian citizenship in June 2012 and surrendering her two Jordanian passports: one that expired in October 1989 and the other that expired in May 2005. (AE A) Since 2003, Applicant has traveled twice to Jordan for vacation: once in October 2009, once in May 2010, and once in December 2010. On each trip she used her U.S. passport. (GE 2)

Applicant has three sisters and two brothers who were born in Jordan and remain citizens of Jordan. Each of them have since immigrated to the United States and reside here. They have green cards that entitle them to work in the United States, and they have applied for U.S. citizenship. (GE 2; Tr. 54)

### **Country information on Jordan**

Jordan occupies a small land area in the Middle East that once was part of the historical fertile crescent region. See *Background Note: Jordan, supra*, at 2. Jordan has a constitutional monarchy based on its constitution promulgated in January 1952. *Id.*, at 3. It is a small country with limited natural resources, especially its water supplies. Its economy is a developing one that relies heavily on imported oil supplies. See *Administrative Notice: Jordan*, at 1-2. Jordan is ruled by King Abdullah II, and has a council of ministers who are selected by the King. See *Background Note: Jordan, supra*, at 1-4. Jordan also has a partially elected bicameral national assembly. *Id.*, at 3-4.

From 1949 to 1967, Jordan administered a territory known as the West Bank. See *Background Note: Jordan, supra*, at 2. Since the 1967 war, when Israel assumed control of the territory, the United States has considered the West Bank to be territory occupied by Israel. *Id.*, at 2. The United States continues to believe that the final status of the West Bank can be determined only through negotiations among the concerned parties based on United Nations (UN) Security Council Resolutions 242 and 338. *Id.*

For over 60 years, Jordan has maintained a close alliance relationship with the United States. However, it has had something of a turbulent history since it signed a mutual defense pact in May 1967 with Egypt. *Background Note: Jordan, supra*, at 1-4.

Despite some noticeable improvements in certain areas, Jordan's human rights record continues to be problematic. See *2008 Human Rights Report: Jordan, supra*, at 1-2. Problems include torture, arbitrary arrest, prolonged detention, overcrowded prisons with poor sanitary conditions, denial of due process, infringement on citizen's privacy rights, political detainees, and restrictions on freedom of speech, press, assembly, association, and movement. *Id.* The UN reports widespread use of torture by police and security forces in the country, and there has been some substantiation of torture reports. See *2008 Human Rights Report: Jordan, supra*, at 2.

Jordanian law allows any male relative to prevent a woman or child from leaving Jordan, even if they are U.S. citizens. See *Country Specific Information: Jordan, supra*, at 3. Jordanian law applies to dual Jordanian-U.S. citizens, and subjects dual citizens to mandatory military service obligations for males under the age of 37. *Id.* Jordan treats dual citizens as Jordanian citizens and is known not to inform the U.S. embassy of dual Jordanian-American citizen problems while in Jordan.

Counterterrorism measures notwithstanding, the threat of terrorism remains high in Jordan. Terrorists in Jordan often do not distinguish between U.S. Government personnel and private citizens and specifically target areas known to be frequented by

Westerners. See *Country Specific Information: Jordan, supra*, at 2. To be sure, Jordanian security forces are of record in disrupting numerous terrorist plots against U.S. interests in recent years, and have continued to prosecute terrorism cases, both al-Qaida related and non-al-Qaida related. See *Country Reports on Terrorism 2008, supra*, at 12. Jordan's state security court convicted and sentenced three individuals, first to death, but then commuted the sentences to 15 years each, for plotting to assassinate President Bush during his November 2006 trip to Jordan. *Id.*

For the future, terrorist groups can be expected to continue to conduct intelligence activities as effectively as the Jordanian state's intelligence services. See *Statement for the Record from the Counterintelligence Executive, supra*, at 2.

## **Endorsements**

Applicant is highly regarded by her command who work with her closely and vouch for her loyalty and trustworthiness. Her facility security officer (FSO) who worked with her in Iraq for eight months considers her a loyal, reliable and trustworthy translator. (Tr. 31-33) He expressed familiarity with her siblings immigration to the United States and her lack of interest in Jordan. (Tr. 34) He trusts her enough to place his life in her hands. (Tr. 36)

Applicant's military superior during her Iraq deployments (an Army staff judge advocate) first worked with her in Iraq in 2009 and credits her with extraordinary assistance in the preparation of detainees in advance of the planned U.S. troop withdrawal from Iraq. (Tr. 39-42) He considers Applicant to be 100 percent trustworthy and a close family friend. He would be willing to place his life in her hands. (Tr. 43)

## **Policies**

The AGs list guidelines to be used by administrative judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include "[c]onditions that could raise a security concern and may be disqualifying" (disqualifying conditions), if any, and many of the "[c]onditions that could mitigate security concerns." They must be considered before deciding whether or not a security clearance should be granted, continued, revoked, or denied. The guidelines do not require administrative judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision. Each of the guidelines is to be evaluated in the context of the whole person in accordance with AG ¶ 2(c)

In addition to the relevant AGs, administrative judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in AG ¶ 2(a) . AG ¶ 2(a) is intended to assist the judges in reaching a fair and impartial commonsense decision based upon a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following AG ¶ 2(a) factors:

(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.

Viewing the issues raised and evidence as a whole, the following adjudication policy factors are pertinent herein:

### **Foreign Preference**

*The Concern:* When an individual acts in such a way as to indicate preference for a foreign country over the United States, then he or she may be prone to provide information or make decisions that are harmful to the interests of the United States. See AG ¶ 9.

### **Foreign Influence**

*The Concern:* 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. See AG ¶ 6.

## **Burden of Proof**

Under the AGs, a decision to grant or continue an applicant's security clearance may be made only upon a threshold finding that to do so is clearly consistent with the national interest. Because the Directive requires administrative judges to make a commonsense appraisal of the evidence accumulated in the record, the ultimate determination of an applicant's eligibility for a security clearance depends, in large part, on the relevance and materiality of that evidence. See *United States, v. Gaudin*, 515 U.S. 506, 509-511 (1995). As with all adversarial proceedings, the judge may draw only those inferences which have a reasonable and logical basis from the evidence of record. Conversely, the judge cannot draw factual inferences that are grounded on speculation or conjecture.

The Government's initial burden is twofold: (1) it must prove by substantial evidence any controverted facts alleged in the SOR, and (2) it must demonstrate that the facts proven have a material bearing to the applicant's eligibility to obtain or maintain a security clearance. The required materiality showing, however, does not require the Government to affirmatively demonstrate that the applicant has actually mishandled or abused classified information before it can deny or revoke a security clearance. Rather, the judge must consider and weigh the cognizable risks that an applicant may deliberately or inadvertently fail to safeguard classified information.

Once the Government meets its initial burden of proof of establishing admitted or controverted facts, the evidentiary burden shifts to the applicant for the purpose of establishing his or her security worthiness through evidence of refutation, extenuation, or mitigation. Based on the requirement of Exec. Or. 10865 that all security clearances be clearly consistent with the national interest, the applicant has the ultimate burden of demonstrating his or her clearance eligibility. "[S]ecurity-clearance determinations should err, if they must, on the side of denials." See *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988). And because all security clearances must be clearly consistent with the national interest, the burden of persuasion must remain with the Applicant.

## **Analysis**

Appellant is a civilian translator who deployed several times to Iraq between 2009 and 2010, while holding dual citizenship with the United States and Jordan. She has since renounced her Jordanian citizenship and surrendered her two Jordanian passports.

Applicant's parents immigrated to the United States in 1994 and currently reside in this country. She has two brothers and three sisters who were citizens and residents of Jordan. They have since immigrated to the United States and currently reside in this country as well. None of Applicant's immediate family members have shown any interest to return to Jordan to reside.

## **Foreign Preference concerns**

By virtue of her birth in Jordan to parents of Jordanian descent and citizenship, Applicant was endowed with Jordanian citizenship. This citizenship could not be lost except by express renunciation, approved by the Jordanian government. Applicant renounced her Jordanian citizenship in June 2012 and surrendered her two expired Jordanian passports at the same time. She currently has no inheritance rights in Jordan and retains no other property interests in Jordan. She has not received any financial benefits from Jordan since she became a U.S. citizen. When she has traveled to Jordan for vacations and to see her family, she always used her U.S. passport after becoming a U.S. citizen.

Foreign preference and foreign influence concerns are raised relative to Applicant's past Jordanian citizenship and Jordanian passports. Since becoming a naturalized U.S. citizen in 2003, Applicant has taken several actions and exercised Jordanian privileges that reflect active indicia of dual citizenship. Specifically, she retained her Jordanian citizenship and renewed her Jordanian passports to preserve her inheritance rights to property owned by her grandfather.

Disqualifying conditions (DCs) that raise foreign preference concerns comprise DC ¶ 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," to include "(1) possession of a current foreign passport" and "(5) using foreign citizenship to protect financial or business interests in another country." By retaining her Jordanian citizenship and renewing her Jordanian passport after becoming a U.S. citizen, Applicant exercised privileges of Jordanian citizenship.

Three potentially applicable mitigating conditions may be considered. Having exercised a privilege of her dual Jordanian citizenship by renewing her Jordanian passport in 2003, Applicant has since renounced her Jordanian citizenship and surrendered her Jordanian passports. As a result, three mitigating factors apply to Applicant's situation: MC ¶ 11(a), "dual citizenship is based solely on her parents' citizenship or birth in a foreign country," MC ¶ 11(b), "the individual has expressed a willingness to renounce dual citizenship," and MC ¶ 11(e), "the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated."

Applicant has firmly demonstrated her loyalty and preference towards the United States through her dedicated support of U.S. security interests in Iraq where she has earned the respect and trust of members of her command. She has no financial interests in Jordan and considerable financial interests in the United States.

Considering all of the circumstances surrounding Applicant's exercise of dual citizenship with Jordan and the United States and her demonstrated mitigation efforts, foreign preference concerns are mitigated.



## Foreign Influence concerns

Foreign influence concerns are raised, too, over the presence of members of Applicant's family (*i.e.*, her brothers and sisters) who are or have been citizens of Jordan, a country historically beset with violence and terrorism in certain parts of the country. Because Applicant's sisters and brothers are still citizens of Jordan (although they reside in the United States), they present some potential security risks covered by disqualifying condition (DC) 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," of the AGs for foreign influence.

The citizenship and potential return residence status of Applicant's sisters pose some potential concerns for Applicant because of the risks of undue foreign influence that could compromise sensitive or classified information under Applicant's possession or control. Risks are considerably lessened, however, by their residence status in the United States and the absence of any affiliations or contacts of family members with Jordan officials currently known to be associated with intelligence or military organizations interested in collecting proprietary or sensitive information in the United States.

Further, from what is known from the presented evidence, none of Applicant's family members have any (a) political affiliations with the Jordanian government or military, (b) history to date of being subjected to any coercion or influence, or (c) appear to be vulnerable to the same. Jordan, although a country with reported violence and terrorism, and human rights violations, enjoys a friendly bilateral relationship with the United States, with a strong respect for the rule of law in the areas of foreign trade and commerce. While Jordan has a documented record of illegal arrests and detentions, kidnaping, and human trafficking, it generally enjoys stable diplomatic and trade relationships with the United States.

The AGs governing collateral clearances do not dictate *per se* results or mandate particular outcomes for applicants with relatives who are citizens or residents of foreign countries in general. What is considered to be an acceptable risk in one foreign country may not be in another. While foreign influence cases must by practical need be weighed on a case-by-case basis, guidelines are available for referencing in the supplied materials and country information about Jordan.

Jordan remains a valuable trading partner and a country with institutions that are wholly compatible with our traditions and respect for human rights and the rule of law. The AGs do take into account the country's demonstrated relations with the United States as an important consideration in gauging whether the particular relatives with citizenship and residency elsewhere create a heightened security risk. The geopolitical aims and policies of the particular foreign regime involved do matter. Jordan, while reported to have terrorism, human rights, and human trafficking issues in certain parts of

the country, is still a country with no known recent history of government-sponsored hostage taking or disposition for exerting undue influence against family members to obtain classified information or unclassified economic and proprietary data.

As for security concerns associated with the Jordanian citizenship status of Applicant's brothers and sisters, any potential heightened risk of a hostage situation or undue foreign influence brought in the hopes of eliciting either classified information or economic or proprietary data out of Appellant through her family members residing in Jordan is quite remote. Applicant, accordingly, may take advantage of one important mitigating condition: MC ¶ 8(a), "the nature of the relationships with foreign persons, the country in which these persons are located, or the persons or activities of these 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."

MC ¶ (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," has application, too, to Appellant's situation. Since immigrating to the United States in 1985, Applicant has demonstrated loyalty, patriotism, and professional commitments to the United States. Whatever potential conflicts she may have through her prior dual Jordanian citizenship and contacts with her family members in Jordan have been more than counterbalanced by her demonstrated U.S. citizenship responsibilities.

Any conflict risks are further reduced by the lack of Applicant's financial interests in Jordan and corresponding material financial interests in the United States. Accordingly, MC ¶ (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," is applicable to Applicant's situation as well.

In appraising risks associated with Applicant's Jordanian family relationships from a whole-person perspective, considerable weight is accorded Jordan's strong historical relations with the United States, the lack of any cognizable potential conflicts between Applicant and members of her family, the U.S. residency status of her family members, and the absence of any detectable Applicant financial interests in Jordan (and corresponding material interests in the United States). Since becoming a U.S. citizen Applicant has shown excellent character and placed her own life in danger to protect U.S. interests in a combat zone in Iraq. Members of her command commend her efforts and credit her with significant contributions to the U.S. withdrawal mission in Iraq.

When considered together, any risk of undue foreign influence on Applicant and her family members is insubstantial, and clearly not of the magnitude that could make

them subject to a heightened security risk of coercion, pressure, or compromise under the foreign influence guideline. Foreign influence concerns are mitigated.

### **Formal Findings**

In reviewing the allegations of the SOR and ensuing conclusions reached in the context of the findings of fact, conclusions, conditions, and the factors listed above, I make the following formal findings:

GUIDELINE B (FOREIGN INFLUENCE): FOR APPLICANT

Subparas. 1.a through 1.c: For Applicant

GUIDELINE C (FOREIGN PREFERENCE): FOR APPLICANT

Subpara. 2.a: For Applicant

### **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 Applicant's security clearance. Clearance is granted.

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Roger C. Wesley  
Administrative Judge