



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



In the matter of:	)	
	)	
[NAME REDACTED]	)	ISCR Case No. 11-14762
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Richard Stevens, Esquire, Department Counsel  
For Applicant: *Pro se*

02/06/2014

**Decision**

MALONE, Matthew E., Administrative Judge:

Applicant mitigated the security concerns about his ties to family members who are citizens of Singapore and reside in Singapore, the United States, and France. He did not, however, mitigate the security concerns raised by his 2002 acquisition of Singaporean permanent resident status, and his renewal of that status in 2007 and 2012. Clearance is denied.

On April 4, 2011, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain or renew a security clearance required for his work as an employee of a defense contractor. A review of the results of the ensuing background investigation, which included Applicant's responses to interrogatories from adjudicators for the Department of Defense (DOD), showed that it was not clearly consistent with the national interest for Applicant to have access to classified

information.<sup>1</sup> On March 21, 2013, DOD issued to Applicant a Statement of Reasons (SOR) alleging facts which raise security concerns addressed in the adjudicative guidelines<sup>2</sup> regarding foreign influence (Guideline B) and foreign preference (Guideline C).

Applicant timely responded to the SOR (Answer) and requested a hearing. The case was assigned to me on October 23, 2013, and I convened the requested hearing on November 20, 2013.

Department Counsel presented Government Exhibits (Gx.) 1 - 3, which were admitted without objection. As to Gx. 3, that exhibit was presented so that I might take administrative notice of certain facts germane to the issues presented by the pleadings. Applicant testified in his own behalf and presented Applicant's Exhibits (Ax.) A and B, which were admitted without objection. DOHA received the transcript of hearing (Tr.) on December 3, 2013.

### **Findings of Fact**

Under Guideline B, the Government alleged that Applicant's brother-in-law, is a citizen and resident of Singapore, as well as an active duty member of Singapore's military (SOR 1.a); that Applicant's mother-in-law and father-in-law are citizens and residents of Singapore (SOR 1.b); that Applicant's sister-in-law is a citizen of Singapore and resides in France (SOR 1.c); and that Applicant's wife is a citizen of Singapore and resides in the United States (SOR 1.d). Applicant admitted, albeit with explanations, all of the SOR 1 allegations. Under Guideline C, the Government alleged that in 2002, Applicant obtained status as a permanent resident in Singapore so that he could live and/or work there (SOR 2.a); and that Applicant renewed his Singapore permanent resident status in 2007 (SOR 2.b) Applicant admitted, also with explanations, both SOR 2 allegations. (Answer)

Applicant's admissions are incorporated in my findings of fact. Having reviewed the pleadings, transcript, and exhibits, I make the following additional findings of fact.

Applicant is a 40-year-old native-born citizen of the United States. He has worked for his current employer, a large defense contractor, since 2004, and he is currently assigned as a senior mechanical engineer supporting development and manufacturing of military aircraft self-defense and countermeasure systems. Before 2004, he built semiconductors for a nationally-known electronics corporation in work not related to the defense industry. This is Applicant's first application for a security clearance. (Gx. 1; Tr. 27)

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<sup>1</sup> Required by Executive Order 10865, as amended, and by DoD Directive 5220.6 (Directive), as amended.

<sup>2</sup> The adjudicative guidelines were implemented by the Department of Defense on September 1, 2006. These guidelines were published in the Federal Register and codified through 32 C.F.R. § 154, Appendix H (2006).

Applicant earned a bachelor's degree in mechanical engineering in 2008. In 2012, he received a master's degree in that field. In 1999, Applicant met his now-wife on line. She was born and raised in Singapore, and she has bachelor's and master's degrees in business administration. She came to the United States in 2000 and obtained permanent resident alien status. She does not want to become a U.S. citizen because Singapore does not allow dual citizenship and she would have to relinquish her native citizenship. They were married in July 2000 in a small civil ceremony in the United States. (Answer; Gx. 1; Tr. 27 - 28, 33, 38, 41 - 42)

In 2002, they went to Singapore for a formal ceremony with her family. While in Singapore, Applicant applied for and received status as a permanent resident of Singapore. He did so at his wife's urging. He and his wife were concerned that, if something should happen to her family, they would want the option of a longer stay than that allowed by U.S. citizens traveling on U.S. passports. She also has expressed a desire to live in Singapore to be near her family. (Gx. 2; Tr. 40 - 42)

As a permanent resident, Applicant can stay in Singapore indefinitely and he can obtain employment there. Traveling to Singapore on his U.S. passport, Applicant cannot stay longer than 30 days, and he cannot work there without an employment visa. Applicant testified that he always uses his U.S. passport to enter Singapore, but he admitted that he would be able to clear customs more quickly as a permanent resident. (Gx. 2; Tr. 43 - 45, 52 - 53)

In 2000, Applicant also was concerned about possible lay-offs at work. Having permanent resident status would also allow him to work in Singapore without obtaining a work visa. Also, if he were to work for a U.S. company there, he would not have to obtain a work visa. He acknowledged that being a permanent resident there is a potential advantage. Applicant has not ruled out seeking employment in Singapore. He turned down a job offer there in 2012, and he is still concerned about the cyclical nature of defense contracting work in the United States. (Gx. 2; Tr. 34 - 35, 39, 59 - 65, 74)

In 2007 and 2012, Applicant traveled to Singapore to renew his permanent resident status. His status does not allow him to vote there, nor does it make him eligible for other benefits of Singaporean citizenship. However, if he were to find work there, he would be eligible to receive medical care in proportion to his contributions to a national medical insurance fund. (Answer; Gx. 2; Tr. 54 - 58, 61)

Applicant has little direct contact with his wife's family because they speak little to no English and he does not speak Mandarin. Her father drives a taxi and her mother is a homemaker. Her sister is married and lives in France as a homemaker. Applicant's wife's brother is an officer in the Singapore army. He was assigned to special warfare units that have trained with U.S. military counterparts. Applicant thinks his brother-in-law is now working in Singapore's counter-terrorism program. Applicant has always been circumspect in discussing his work with anyone in his or his wife's family. Applicant's work with his current employer is not related to his brother-in-law's assignments or to the Singaporean military. (Gx. 1; Gx. 2; Tr. 33, 46 - 49)

Singapore is one of Asia's most prosperous and stable countries. Since gaining independence in 1965, it has had strong political, military, and economic relations with the United States. Singapore has a significant population of U.S. citizens because more than 2,000 American companies have their regional headquarters there. Singapore is an open society governed through an openly-elected legislature, and an independent judiciary. Its human rights record is generally good, and Singapore is not known for targeting the United States through economic or industrial espionage. At hearing, Department Counsel conceded that Singapore does not present a heightened risk of coercion. (Gx. 3; Tr. 10 - 11)<sup>3</sup>

Applicant has an excellent record at work. His evaluations and the recommendations praise his expertise, professionalism and reliability. (Ax. A; Ax. B)

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>4</sup> and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the new guidelines. Commonly referred to as the "whole person" concept, those factors are:

(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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information.

A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>5</sup> for an applicant to either receive or continue to

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<sup>3</sup> In addition to Gx. 3, sua sponte I consulted general information about Singapore contained on the U.S. State Department and Central Intelligence Agency's web sites.

<sup>4</sup> See Directive. 6.3.

<sup>5</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

have access to classified information. The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.<sup>6</sup>

A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>7</sup>

## **Analysis**

### **Foreign Influence**

The facts established by Department Counsel's information and by Applicant's admissions raise security concerns about Applicant's personal relationships with Singaporean citizens. The security concern about foreign influence is stated at AG ¶ 6 as follows:

[f]oreign 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.

More specifically, available information requires application of the following AG ¶ 7 disqualifying conditions:

(a) contact with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a

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<sup>6</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>7</sup> See *Egan*; AG ¶ 2(b).

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

(d) sharing living quarters with a person or persons, regardless of citizenship status, if that relationship creates a heightened risk of foreign inducement, manipulation, pressure, or coercion.

Applicant lives in the United States with his wife, who, along with her parents and her siblings are citizens of Singapore. Aside from a sister-in-law who lives in France, all of her family resides in Singapore. The fact that Applicant's brother-in-law is an officer in the Singaporean army also presents a possible security concern. These facts are sufficient to require consideration of AG ¶¶ 7(a) and (d); however, those disqualifying conditions apply only if there is "a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion." At the beginning of the hearing, Department Counsel conceded that Singapore does not present such a risk. Consideration of U.S. State Department information about Singapore's human rights record, as well as general information from Government web sites supports that position. Singapore is a prosperous, stable nation whose economic, political, and military interests are closely aligned with the United States. It has an open, orderly society governed through largely democratic means, and there is no indication that Singapore engages in commercial or military espionage against the United States. I conclude that AG ¶¶ 7(a) and (d) are not established.

As to AG ¶ 7(b), Applicant's brother-in-law is a Singaporean military officer engaged in sensitive matters such as special warfare and counter terrorism. Applicant works for a U.S. defense contractor that provides force protection measures for U.S. aircraft in combat zones. Applicant credibly testified that he is careful not to discuss his work with anyone, especially family members. Also, it was not established that Applicant's work presents a conflict of interest with his brother-in-law's military duties. All available information probative of this issue is not sufficient to establish applicability of AG ¶ 7(b). On balance, the security concerns about possible foreign influence stated in the SOR are resolved for the Applicant.

### **Foreign Preference**

The Government's information about Applicant's permanent resident status in Singapore is sufficient to raise a security concern about possible foreign preference. That concern is expressed at AG ¶ 9, as follows:

When an individual acts in such a way as to indicate a 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.

More specifically, available information requires application of the disqualifying condition at AG ¶ 10(a):

exercise of any right, privilege or obligation of foreign citizenship after becoming a U.S. citizen or through the foreign citizenship of a family member. This includes *but is not limited to* (emphasis added):

- (1) possession of a current foreign passport;
- (2) military service or a willingness to bear arms for a foreign country;
- (3) accepting educational, medical, retirement, social welfare, or other such benefits from a foreign country;
- (4) residence in a foreign country to meet citizenship requirements;
- (5) using foreign citizenship to protect financial or business interests in another country;
- (6) seeking or holding political office in a foreign country;
- (7) voting in a foreign election.

None of the listed sub-parts of this disqualifying condition apply specifically in this case. For instance, Applicant has not voted or sought political office in Singapore. He is not likely to bear arms in the Singaporean army, and he is not trying to relinquish his U.S. citizenship so he can acquire Singaporean citizenship. He does not have a foreign passport and he has not accepted medical, educational or other benefits from Singapore. And he has no known financial or business interests there.

Nonetheless, the list is not exhaustive and the facts presented here fall within the contemplated ambit of circumstances that would make AG ¶ 10(a) applicable. Applicant's permanent resident status in Singapore may allow him to enter that country separate from other U.S. citizens, and it allows him to avoid other limitations associated with his U.S. passport. For example, he can stay in Singapore longer than 30 days and he can get a job there. If he were to obtain employment with one of the many U.S. companies doing business there, as a permanent resident he also would be able to avoid the need for a work visa.

Applicant's repeated renewal of his permanent resident status makes it reasonable to conclude that he wants to have an open-ended contingency for relocating to Singapore with ease in response to personal or professional circumstances. Generally, there is nothing improper or illegal about Applicant's conduct. However, in

the context of assessing his suitability for access to classified information, Applicant's long-term status as a permanent foreign resident supports the security concerns expressed under this guideline. I conclude AG ¶ 10(a) applies.

I have also considered the mitigating conditions potentially available under AG 11 mitigating conditions:

- (a) dual citizenship is based solely on parents' citizenship or birth in a foreign country;
- (b) the individual has expressed a willingness to renounce dual citizenship;
- (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;
- (d) use of a foreign passport is approved by the cognizant security authority;
- (e) the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated; and
- (f) the vote in a foreign election was encouraged by the United States Government.

None of the Guideline C mitigating conditions is applicable based on these facts. There is no dual citizenship, foreign passport, or participation in foreign elections at issue here. Further, Applicant has at all times been a U.S. citizen and his acquisition of permanent resident status in Singapore occurred as an adult. Applicant has left open the possibility that he will seek employment in Singapore and that his wife would like to be closer to her family. His ongoing exercise of permanent resident status, even in a friendly and safe foreign country, continues to present security concerns that Applicant would act contrary to U.S. interests while holding a security clearance. Applicant failed to mitigate this security concern.

### **Whole-Person Concept**

I have evaluated the facts presented and have applied the appropriate adjudicative factors under Guidelines B and C. I have also reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(a). Applicant is a mature, responsible adult. He and his wife are well-educated and have worked hard to create a variety of personal and professional opportunities for themselves. Applicant has a good reputation at work and his employer endorses his request for a security clearance. However, available information also shows that Applicant's personal circumstances are not consistent with the Government's compelling need to ensure that he will not act to support the interests of another country while he has access to classified information.



Applicant did not meet his burden of alleviating the doubts about his clearance suitability raised by the Government's information. Because protection of the national interest is the main objective of these adjudications, any remaining doubts must be resolved against granting the requested access.

### **Formal Findings**

Formal findings 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 - 1.d:	For Applicant
Paragraph 2, Guideline C:	AGAINST APPLICANT
Subparagraphs 2.a - 2.b:	Against Applicant

### **Conclusion**

In light of all of the foregoing, it is not clearly consistent with the national interest for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

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MATTHEW E. MALONE  
Administrative Judge