



Applicant for Security Clearance

09/30/2016

Decision

notice of hearing scheduling the case for July 20, 2016. I held the hearing as scheduled and considered four Government exhibits (GE), marked as GE 1 through 4, and I took administrative notice, at Department Counsel's request, of the facts set forth in 8 documents (Hearing Exhibits (HEs) I-VIII). At Applicant's request, I left the record open at the close of the hearing, without objection, to allow him the opportunity to submit additional exhibits. Within the time allotted, he submitted four exhibits that I incorporated into the record as Applicant's Exhibits (AE) A through D. The transcript was received on July 28, 2016.

Findings of Fact

Applicant is a 41-year-old married man. He has been married to his current wife since December 2010. A previous marriage ended in divorce in 2008. Applicant earned an undergraduate degree in electrical engineering in 1996 and a master's degree in business administration (MBA) in 2009. Since 2001, he has worked as a software technology engineer. (Tr. 18) Currently, he works for a defense contractor as a senior project manager. His duties include managing software teams and business proposals. (Tr. 58)

Applicant was born, raised, and educated through college in Turkey. He immigrated to the United States in 2001 and has been a naturalized U.S. citizen since 2013. (Tr. 21)

Applicant's immediate family and in-laws are citizens and residents of Turkey. Applicant's father is a retired elementary school teacher, and his mother is a homemaker. He communicates with his parents once or twice a week through text messages or phone calls. Applicant travels to Turkey once or twice a year to visit his parents. (GE 1 at 36-53) He periodically supports his parents financially. Most recently he gave his father \$7,000 to help pay for a surgery. (Tr. 39)

Applicant has two sisters. His youngest sister is a doctor. He communicates with her once every other week. She visits the United States frequently, attending medical conferences and completing sabbaticals. She often visits him while she is here. (Tr. 41, 48) Applicant typically stays with her or his parents when he visits Turkey. Applicant's oldest sister is a civil engineer. She works for the equivalent of a municipality in Turkey. (Tr. 49) Applicant does not stay in touch with this sister as much as his other sister because she is preoccupied with raising her young children. She last visited him in the United States at his MBA graduation ceremony in 2009. (Tr. 41)

Applicant's in-laws are divorced. His father-in-law owns a packaging company and his mother-in-law is a homemaker. (Tr. 45) He speaks with his father-in-law approximately once every three or four months and speaks with his mother-in-law approximately once every two to three months. (GE 2 at 15)

As of the hearing date, Applicant possessed a valid Turkish passport, issued in November 2011 before he became a United States citizen. He used it to facilitate trips after becoming a U.S. citizen on two occasions to countries that either imposed fees on U.S. - passport travellers, or required a visa for U.S. - passport travellers. (Tr. 19) He never used it to travel to Turkey, and he stopped using it once he was informed during his investigative interview of its security significance. (Tr. 20) On July 28, 2016, he surrendered it to the facility security officer of his employer. (AE B) Applicant voted in a Turkish election in August 2014. (Tr. 22) He did so at the Turkish embassy in the United States. Applicant was not aware of the negative security inferences of possessing a foreign passport and voting in foreign elections until he met with an investigative agent in November 2014.

In June 2012, Applicant and his wife opened and deposited \$83,000 into a savings account at a bank in Turkey. (GE 2 at 15) At the time, they were considering purchasing a Turkish investment property. By June 2014, they decided not to purchase an investment property. They withdrew \$30,000, transferring it to a U.S. account, and maintained the Turkish account for emergencies. In August 2016, they closed the account and transferred the money to one of their U.S. accounts. (AE C at 2; AE D) They intend to use these savings to purchase a home.¹ Applicant maintains a checking account with a \$500 balance in Turkey. (Tr. 30) His U.S. - based assets total \$450,000. (Tr. 53)

Turkey is a constitutional republic with a multiparty parliamentary system and a president. (HE IV at 1) It is a candidate for European Union membership, and belongs to the North Atlantic Treaty Organization (NATO), representing NATO's "vital eastern anchor," and is a longstanding counterterrorism partner with the United States, co-chairing the Global Counterterrorism Forum. (HE III at 2) (HE I at 1) The United States-Turkey relationship is "based on mutual interests and mutual respect, and is focused on areas such as regional security and stability, as well as economic cooperation." (HE I at 1)

Over the past few years, there have been multiple terrorist attacks in Turkey, and the possibility of terrorist attacks against U.S. citizens and interests remains high. (HE II at 5) Turkey has fought the Kurdistan Worker's Party, a terrorist group in the country's southeastern region, for 30 years. The peace process has been arduous, with cease fires, followed by a resumption of terrorist attacks. (HE III at 5) Turkey is the main transit route for Islamic State terrorist fighters from the Middle East to Europe. (HE III at 1)

In 2014, three members of the Islamic State killed a policeman, a non-commissioned officer, and a truck driver at a checkpoint. (HE II at 3) Significant terrorist episodes from 2015 include a suicide bombing at a police station, killing one person, and a bombing near the Syrian border that killed 30 people. (HE II at 2)

Turkey has addressed these threats with a multi-pronged response, organizing programs in restive, impoverished communities analogous to U.S. anti-gang initiatives,

¹Applicant and his family are currently living in a rental property.

organizing risk analysis units to detect suspected foreign fighters at airports and borders, and introducing tougher screening procedures. (HE III at 1-3) Working with neighboring countries, Turkey has developed an extensive banned-from-entry list of known or suspected terrorist fighters. (HE III at 1) Also, Turkey has sought assistance from the U.S. Department of Homeland Security to develop an automated advanced passenger/passenger name record system. (HE III at 2) In 2014, Turkish national police offered counterterrorism training programs to law enforcement officers from several Central Asian countries.

Turkey's security apparatus has sometimes interpreted its anti-terrorism laws overbroadly, using it as a pretense to jail reporters, politicians, and activists. (HE III at 2) Other significant human rights problems include restrictions on freedom of speech and assembly, and mistreatment of refugees. (HE IV at 26)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied together with the factors listed in the adjudicative process. 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 protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR.

Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (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.

Analysis

Foreign Preference

Under this guideline, “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.” (AG ¶ 9) Applicant’s Turkish passport possession, together with his use of it after becoming a U.S. citizen, and his vote in a Turkish election triggers the application of 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 ...[including] but not limited to . . . possession of a current foreign passport . . . [and] . . . voting in a foreign election.”

Applicant was unaware of the security significance of his actions before meeting with an investigator in 2014. Since the meeting, he has neither voted in a Turkish election, nor travelled with his Turkish passport. Applicant recently surrendered his passport to the FSO of his company. AG ¶ 11(e), “the passport has been destroyed, surrendered to the cognizant security authority, or otherwise invalidated,” applies.

Guideline B, Foreign Influence

Under this guideline, “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 the United States interests, or is vulnerable to pressure or coercion by any foreign interest.” Moreover, “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.” (AG ¶ 6)

Although Turkey is a U.S. ally, its problems with terrorism create “a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion,” vis a vis Applicant’s family members who are Turkish citizens and residents. (AG ¶ 7(a)). Applicant’s bank accounts in Turkey trigger the application of AG ¶ 7(e), “a substantial business, financial, or property interest in a foreign country, or in any foreign-owned or foreign-operated business, which could subject the individual to heightened risk of foreign influence or exploitation.”

The remaining money deposited in Applicant’s bank account in Turkey is nominal compared to his overall assets in the United States. AG ¶ 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,” applies. Accordingly, I resolve subparagraph 2.f in Applicant’s favor.

Applicant’s casual, infrequent contact with his sister the civil engineer and his parent-in-laws trigger the application of AG ¶ 8(c), “contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.” I resolve subparagraphs 2.c and 2.e in Applicant’s favor.

Applicant has a close relationship with his parents, speaking with them each week, and visiting them once or twice per year. Although he does not talk to his sister the physician as much as his parents, he is similarly close to her, as she visits him in the United States when she travels here for medical conferences. AG ¶ 8(c) does not apply to these relationships.

Applicant has been living in the United States for 15 years and has been a naturalized citizen for the past three years. He earned a postgraduate degree here and has cultivated a successful career. Conversely, Applicant just voted in a Turkish election within the past five years. Moreover, he presented minimal evidence of roots in the community or interpersonal relationships in the United States sufficient to trigger the application of AG ¶ 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 United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest.” Applicant has failed to mitigate the foreign influence security concern.

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 C:	FOR APPLICANT
Subparagraphs 1.a - 1.b:	For Applicant
Paragraph 2, Guideline B:	AGAINST APPLICANT
Subparagraphs 2.a - 2.b:	Against Applicant
Subparagraph 2.c:	For Applicant
Subparagraphs 2.d:	Against Applicant

Subparagraph 2.e - 2.f:

For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MARC E. CURRY
Administrative Judge