



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



In the matter of:)
)
) ISCR Case No. 15-06482
)
Applicant for Security Clearance)

Appearances

For Government: Chris Morin, Esq., Department Counsel
For Applicant: *Pro se*

05/25/2017

Decision

TUIDER, Robert J., Administrative Judge:

On December 22, 2014, Applicant submitted a Questionnaire for National Security Positions (SF-86). On April 15, 2016, after reviewing the application and information gathered during a background investigation, the Department of Defense Consolidated Adjudications Facility, Fort Meade, Maryland, sent Applicant a statement of reasons (SOR), explaining it was unable to find that it was clearly consistent with the national interest to grant him eligibility for access to classified information.¹ The SOR detailed the factual reasons for the action under the security guidelines known as Guideline B (foreign influence) and Guideline C (foreign preference). Applicant timely answered the SOR and requested a hearing.

¹ This case is adjudicated under Executive Order 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended, as well as Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive). In addition, the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on September 1, 2006, apply here. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2006). The AG replaced the guidelines found in Enclosure 2 to the Directive prior to September 1, 2006, and a copy of these guidelines was provided directly to the Applicant in this case.

On December 23, 2016, the case was assigned to me. On January 18, 2017, the hearing was held as scheduled. After reviewing Applicant's hearing transcript, evidence, and post-hearing evidence, I e-mailed the parties indicating that this case was appropriate for a summary disposition in Applicant's favor. Applicant did not object. Department Counsel had 10 days to consider the matter and provided written notice that Department Counsel did not object.

The SOR allegations stem from Applicant having an Iraqi passport and immediate family relatives in Iraq. Applicant has surrendered his Iraqi passport to the appropriate authorities and demonstrated that his ties to the United States are more substantial than his ties to Iraq. He has served as an interpreter with the U.S. armed forces at considerable personal risk since 2006 and been the victim of three separate IEDs. Applicant has an excellent reputation for trustworthiness. Based on the record evidence as a whole, I conclude that Department Counsel presented sufficient evidence to establish the facts alleged in the SOR under Guidelines B and C. I also conclude that Applicant presented sufficient evidence to explain, extenuate, or mitigate the facts admitted by Applicant or proven by Department Counsel. In particular, I conclude that the foreign influence and foreign preference security concerns are resolved in whole or in part under the respective and appropriate mitigating conditions.

The concerns over Applicant's history of foreign influence and foreign preference do not create doubt about his current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also gave due consideration to the whole-person concept. Accordingly, I conclude that he met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant him eligibility for access to classified information. This case is decided for Applicant.

Robert J. Tuidor
Administrative Judge