



**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. 15-08593

**Appearances**

For Government: Robert B. Blazewick, Esq., Department Counsel

For Applicant: Kristen E. Ittig, Esq.

09/25/2017

**Decision**

KATAUSKAS, Philip J., Administrative Judge:

On October 4, 2016, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) sent Applicant a Statement of Reasons (SOR) alleging that his ties to Australia raised security concerns under Guideline B (foreign influence) and Guideline C (foreign preference).<sup>1</sup> Applicant answered the SOR and requested a hearing to establish his eligibility for access to classified information.

On September 8, 2017, I convened a hearing. After my receipt of the transcript on September 18, 2017, I provided written notice to the parties of my intent to resolve the case through a summary disposition in Applicant's favor. Department Counsel indicated that the Government did not object to my proposed resolution of the matter in this fashion. See Appellate Exhibit I.

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<sup>1</sup> This action was taken under Executive Order (E.O.) 10865, Safeguarding Classified Information within Industry (February 20, 1960), as amended, as well as Department of Defense Directive 5220.6, Defense Industrial Personnel Security Clearance Review Program (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 June 8, 2017, apply here. The AG were published in the Federal Register and codified in 32 C.F.R. § 154, Appendix H (2016). In this case, the SOR was issued under Adjudicative Guidelines effective within the Defense Department on September 1, 2006. My Decision and Formal Findings under the revised Guidelines B and C would not be different under the 2006 Guidelines.

Applicant is 74 years old and was born, raised, and educated in Australia. He earned his doctorate in Physics in January 1972. During the course of his education and following the award of his doctorate, Applicant worked as a research scientist for an Australian government defense agency (the "Agency") from 1962 until his retirement in 2002. During his tenure at the Agency, he worked on the development of a specialized radar system. He became a subject matter expert on that system and was promoted to the civilian research scientist equivalent of a one-star general.

Upon his retirement, Applicant wished to remain professionally engaged in working on improvements to the radar system and wished to do so in the United States. He was put in contact with a U.S. Government Defense Agency ("AGA") that was tasked with developing and improving the radar system with which Applicant had become an expert. Ultimately, the AGA recommended that Applicant take employment with the AGA's principal defense contractor. In September 2003 Applicant moved to the United States and took employment with that defense contractor.

Applicant and his wife have lived in a metropolitan suburb, and since 2007 they reside in a home that they own. Applicant became a naturalized U.S. citizen in 2014. Applicant's only significant financial link to Australia is his government pension earned after more than 40 years of government service. That pension pays him about \$43,000 annually and under Australian law may only be deposited in an Australian bank account. Its current value is about \$480,000.<sup>2</sup> In contrast, Applicant's assets in the United States, which include his home and his two retirement accounts, total about \$1,500,000.

Applicant has two grown children who are citizens and residents of Australia. His son is employed by the same Agency from which Applicant retired. Applicant does not know the details of his son's work, and he and his son never "talk shop" about their respective work. His daughter is a retired accountant. Applicant socializes with friends and retired Agency co-workers when he visits Australia, but they do not converse about his former or current work.

Applicant's character witness is a current employee of the AGA. His testimony and the eight written Declarations admitted into evidence attest to the esteem in which the witness and the declarants hold Applicant and to his sound character, reliability, and trustworthiness, particularly in the handling of classified material.

Applicant has lived in the United States for 14 years, is a naturalized citizen, and has personal, financial, and professional ties firmly rooted in this country. Under Guideline B and Guideline C, mitigating conditions AG ¶¶ 8(a), (b), (f), and 11 (e) apply, respectively.

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<sup>2</sup> Applicant's spouse has an Australian bank account that is in her name only with a balance of about \$16,000.

The security concerns over Applicant's ties to Australia 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 Applicant met his burden of persuasion to show that it is clearly consistent with the national interest to grant him eligibility for access to classified information. Applicant's request for a security clearance is granted.

### **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 (Foreign Influence)	For Applicant
Subparagraphs 1.a-d:	For Applicant
Paragraph 2, Guideline C (Foreign Preference)	For Applicant
Subparagraphs 2.a-c:	For Applicant

### **Conclusion**

In light of the record as a whole, it is clearly consistent with the national interest to grant Applicant access to classified information.

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Philip J. Katauskas  
Administrative Judge