



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



In the matter of:)
)
) ISCR Case No. 16-03169
)
)
Applicant for Security Clearance)

Appearances

For Government: Pamela C. Benson, Esq., Department Counsel
For Applicant: *Pro se*

10/10/2018

Decision

HEINY, Claude R., Administrative Judge:

Applicant contests the Department of Defense's (DoD) intent to deny his eligibility for a security clearance to work in the defense industry. Applicant has relatives who are citizens and residents of Djibouti. His father-in-law is employed in a Djibouti government position. He has mitigated all security concerns. Eligibility for access to classified information is granted.

Statement of the Case

Acting under the relevant Executive Order and DoD Directive,¹ on November 14, 2016, the DoD Consolidated Adjudications Facility issued a Statement of Reasons (SOR) detailing security concerns under Guideline B, foreign influence, Guideline H, drug involvement and substance misuse, and Guideline E, personal conduct. On December 3, 2016, Applicant answered the SOR and elected to have the matter decided without a

¹ Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (Sept. 1, 2006 AG) effective within the DoD on September 1, 2006.

hearing. On May 17, 2017, the Defense Office of Hearings and Appeals (DOHA) Department Counsel (DC) submitted the Government's case in a File of Relevant Material (FORM). The FORM contained four attachments (Items). On September 21, 2017, Applicant received a copy of the FORM, along with notice of his opportunity to object to the Government's evidence and submit material to refute, extenuate, or mitigate the potentially disqualifying conditions. Applicant's response was due on October 21, 2017. No response was received. On January 1, 2018, I was assigned the case.

While this case was pending a decision, the Director of National Intelligence issued Security Executive Agent Directive 4, establishing the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), which he made applicable to all covered individuals who require initial or continued eligibility for access to classified information or eligibility to hold a sensitive position. The new AGs supersede the Sept. 1, 2006 AGs and are effective "for all covered individuals" on or after June 8, 2017. Accordingly, I have evaluated Applicant's security clearance eligibility under the new AGs.²

Findings of Fact

In Applicant's answer to the SOR, he admitted his brother, two sisters, father-in-law, and mother-in-law are citizens and residents of Djibouti, but denied the security concern as to their citizenship and residence. He admits his father-in-law is employed by the Djibouti government. He also admits to using "khat"³ in 2013. After a thorough review of the pleadings and exhibits, I make the following findings of fact.

Applicant is 33 years old and lists his position as "CLP," not further explained on his June 2015 Electronic Questionnaires for Investigating Processing (e-QIP). (Item 2) He has worked for a defense contractor since May 2015. He works and resides in Djibouti. On November 11, 2009, he was issued a DoD Secret security clearance. (Item 4) From January 2007 to May 2013, he served as a U.S. Army linguist in Djibouti. (Item 4) He decided to become a linguist instead of joining the U.S. military because he had donated a kidney to his brother and believed he would be disqualified from military service due to having only one kidney. (Item 4) The record contains no information as to Applicant's work performance.

Applicant is a member of the Afar⁴ tribal people in Djibouti. Most of his missions with the U.S. military are in the Afar tribal region. He stated that in most of the places he goes many people know his family and so he is treated as family. (Item 4)

² Application of the AGs that were in effect as of the issuance of the SOR would not change my decision in this case.

³ "Khat" is a controlled Schedule 1 substance in the United States, but is legal in Djibouti. It contains cathinone, a substance with amphetamine-like stimulant said to cause excitement, loss of appetite, euphoria, and is an anti-sleep agent. (Item 4) It is chewed and is analogous to the use of coca leaves in South America or betel nut in Asia.

⁴The Afar people comprise one of the two largest ethnic groups in Djibouti making up 35% of the population.

From June 2011 through May 2013 and June 2013 through October 2014, Applicant visited Djibouti for more than 30 days. (Item 2) He also worked in Djibouti from July 2006 through May 2011. (Item 2) Part of this time he was employed as a linguist with the U.S. Army. In September 2014, he took a supervisor job with his niece's construction company at Camp Lemonier, Djibouti. He left in October 2014 after the contract ended. He has applied twice for a one-year residency identification card in Djibouti: from August 2013 to August 2014 and from October 2014 to October 2015. (Item 4) He obtained the temporary residence ID cards during a period he was not working for the U.S. Government. He did so in order to facilitate easier travel to visit family in Djibouti. (Item 4)

Applicant was born in Djibouti in 1985. In May 1994, Applicant then nine years old, escaped with his mother to Ethiopia to avoid the civil war⁵ in Djibouti. (Item 4) He applied for refugee status, which was approved in May 1998. He was age 13 when he came to the United States. He and six of his siblings were sponsored for immigration to the United States. In June 2004, he graduated from high school in the United States.

In November 2014, Applicant married. His wife is a citizen of Djibouti residing in the U.S., and is a permanent U.S. resident. In October 2013, his wife purchased a \$60,000 home in Djibouti. He has approximately \$64,500 in assets in the United States. (Item 4) He has children, but the number of children and their ages is not contained in the record. He has four brothers and a sister who are U.S. citizens living in the United States.

Applicant's parents are deceased. He has a brother and two sisters who are citizens and residents of Djibouti. One of his sisters also serves as a linguist in Djibouti. (Item 4) Since 2005, he has provided approximately \$9,000 in financial support to his siblings in the approximate amount of \$300 annually to each sibling living in Djibouti. (Item 4) The funds are used for food and living expenses. In July 2014, he was informed the transfer service he had previously used to send funds to his relatives was blocked by the U.S. Government. (Item 4) Because he is restricted to base in Djibouti, his only contact with them is by weekly telephone contact. (SOR Response, Item 2) He has numerous aunts, uncles, nieces, nephews, and cousins who are citizens and residents of Djibouti as well as numerous relatives who are citizens and residents of the United States. (Item 3)

Applicant's mother-in-law and father-in-law are both citizens and residents of Djibouti. His father-in-law has been employed in a Djibouti government position since 2012. He has monthly contact with his mother-in-law. (Item 2) He has had limited contact with his father-in-law and has had personal contact with him only three times between 2013 and 2015. He prefers to avoid speaking with and meeting with his father-in-law due to being intimidated by his father-in-law's authoritative demeanor and his fervent presence. (Item 4)

In describing the feeling for the country of Applicant's birth during a June 2015 interview with a senior counterintelligence (CI) reviewer, he stated,

⁵ The civil war lasted from 1991 to 2001.

It's MY country I consider [it] home. I was born there. It is the only place I have memories of MY parents. That's about it. In the future if the government changes, and becomes democratic I might even consider moving there and retiring. (Item 4)

When asked why it was important to protect U.S. missions and secrets, Applicant stated, "[e]very citizen of the United States life depends on it including MY wife and kids, and for My daughter I'd rather give up My life than put her in harm's way." (Item 4)

Applicant admits using "khat" once in 2006, when living in the United States and once again in 2013 in Djibouti. (Item 4) He did not list his 2013 use on his 2015 e-QIP, but did acknowledge his use during his CI interview. (Item 4) It is unknown if he acknowledged the use before being confronted with the facts. He stated that in 2013, he was at an engagement party and used it one time. (SOR Response, Item 1) He stated, "it was a foolish mistake and bad judgment and I regrade [regret] doing so." (Item 1) He stated he has possessed a confidential security clearance since 2007. (Item 4)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which must be considered in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the adjudication process is an examination of a sufficient period and a careful weight of a number of variables of an individual's life to make an affirmative determination that the individual is an acceptable security risk. This is known as the whole-person concept.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security. In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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 to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship

transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 10865 provides that decisions shall be in terms of the national interest and shall in no sense be a determination of the loyalty of the applicant concerned. See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Foreign Influence

AG ¶ 6 explains the security concern about foreign influence as follows:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

AG ¶ 7 indicates four conditions that could raise a security concern and may be disqualifying in this case:

(a) contact, regardless of method, 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;

(b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology;

(e) shared 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; and

(f) substantial business, financial, or property interests in a foreign country, or in any foreign owned or foreign-operated business that could subject the individual to a heightened risk of foreign influence or exploitation or personal conflict of interest.

Applicant's wife was born in Djibouti and is a permanent U.S. resident living in the United States. His wife has a \$60,000 home in Djibouti. However, Applicant has \$64,500 in assets in the United States. His wife's father is employed in a Djibouti government position. He has a brother and two sisters who are residents and citizens of Djibouti. He also has a sister and four brothers who are citizens and residents of the United States. He has numerous relatives who are citizens of Djibouti living there and numerous relatives who are U.S. citizens living in the United States. His contact with his father-in-law is very limited because his father-in-law has an intimidating demeanor. Since 2013, he has had personal contact with his father-in-law three times.

Applicant's ties with his siblings living in Djibouti, are not, as a matter of law, disqualifying under Guideline B. However, if an applicant or his spouse has a close relationship with even one relative, living in a foreign country, this factor alone is sufficient to create the potential for foreign influence and could potentially result in the compromise of classified information. See ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006); ISCR Case No. 99-0424 (App. Bd. Feb. 8, 2001).

There is a rebuttable presumption that a person has ties of affection for, or obligation to, their immediate family members. See *generally* ISCR Case No. 01-03120, 2002 DOHA LEXIS 94 at *8 (App. Bd. Feb. 20, 2002). "[A]s a matter of common sense and human experience, there is [also] a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person's spouse." ISCR Case No. 07-17673 at 3 (App. Bd. Apr. 2, 2009) (citing ISCR Case No. 01-03120 at 4 (App. Bd. Feb. 20, 2002)). This concept is the basis of AG ¶ 7(e). Indirect influence from a spouse's parents living in Djibouti could result in a security concern. See ISCR Case No. 09-05812 at 2 (App. Bd. Dec. 1, 2011) (finding "presence in India of close family members, viewed in light of that country's troubles with terrorism and its human rights abuses, and his sharing living quarters with a person (his spouse) having foreign family contacts, establish the 'heightened risk'" in AG ¶¶ 7(b) and 7(e)).

Applicant's relationship with his three siblings living in Djibouti could create a concern about Applicant's "obligation to protect sensitive information or technology" and possibly his desire to help his siblings living in Djibouti. However, being restricted to post Applicant only has telephone contact with them. It is possible intelligence officials or other entities in Djibouti wanting to expose Applicant to coercion, could exert pressure on his siblings living in Djibouti. Applicant would then be subject to coercion through his relatives and classified information could potentially be compromised. This is countered by his

statement when asked about why it was important to protect the U.S. mission and secrets. He said the life of every citizen of the United States depends on protecting secrets including the lives of his wife and children. He said he would rather give up his life than put his daughter in harm's way.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Furthermore, friendly nations can have profound disagreements with the United States over matters they view as important to their vital interests or national security. Finally, we know friendly nations have engaged in espionage against the United States, especially in the economic, scientific, and technical fields. See ISCR Case No. 00-0317, 2002 DOHA LEXIS 83 at **15-16 (App. Bd. Mar. 29, 2002).

While there is no evidence that intelligence operatives or terrorists from Djibouti seek or have sought classified or economic information from or through Applicant or siblings living in Djibouti, nevertheless, it is not possible to rule out such a possibility in the future.

AG ¶ 8 lists six conditions that could mitigate foreign influence security concerns including:

- (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those 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.;
- (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;
- (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;
- (d) the foreign contacts and activities are on U.S. Government business or are approved by the cognizant security authority;
- (e) the individual has promptly complied with existing agency requirements regarding the reporting of contacts, requests, or threats from persons, groups, or organizations from a foreign country; and

(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.

The Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

AG ¶¶ 8(a) and 8(c) apply. Applicant has telephonic contact with his siblings living in Djibouti. He has monthly contact with his mother-in-law and very limited contact with his father-in-law. Even with the very limited contact Applicant has with his father-in-law, his father-in-law's position in the country makes reviewing the foreign influence security concerns critical. He has three siblings living in Djibouti and has five siblings who are citizens living in the United States. His contact with his siblings in Djibouti is casual and infrequent. There is little likelihood that his relationships with his siblings in Djibouti could create a risk for foreign influence or exploitation.

AG ¶ 8(b) applies. A key factor in the AG ¶ 8(b) analysis is Applicant's "deep and longstanding relationships and loyalties in the U.S." Applicant has significant connections to the United States. Applicant, his spouse, children, four brothers, and sister are citizens and residents of the United States. He left Djibouti at age 9 due to a civil war in Djibouti. He came to the U.S. at age 13 in a refugee status. He graduated high school in the United States and grew up in the United States. He has spent more than six years as a linguist with the U.S. Army in Djibouti. When he volunteered to assist the U.S. Government as a linguist, he manifested his patriotism, loyalty, and fidelity to the United States over all other countries. Although he wanted to join the U.S. military, his donating a kidney to his brother prevented him from doing so.

Applicant's wife has a \$60,000 home in Djibouti, but he has \$64,500 in financial assets in the United States. AG ¶ 8(f) applies. He provided minimal financial assistance to his three siblings in Djibouti. In 2014, the transfer service he used to send funds was blocked by the U.S. Government.

Applicant's relationship with the United States must be weighed against the potential conflict of interest created by his relationships with family living in Djibouti. There is no evidence, however, that terrorists, criminals, the Djibouti Government, or those conducting espionage have approached or threatened Applicant or his siblings living in Djibouti to coerce Applicant for classified or sensitive information. While the U.S. Government does not have any burden to prove the presence of such evidence, if such record evidence were present, Applicant would have a heavier evidentiary burden to mitigate foreign influence security concerns.

AG ¶¶ 8(d) and 8(e) apply. As a linguist the U.S. Government has encouraged Applicant's involvement with individuals in Djibouti because he is living and working in Djibouti and interacting with the citizens of Djibouti, which is his job. There has been no showing he is required to report his contacts with citizens or residents of Djibouti.

Applicant stated he might even consider moving to Djibouti and retiring there. However, this was not an unconditional statement. The statement was conditioned on changes in the Djibouti government to make it more democratic. Since the statement was conditional and since it is purely speculative should Djibouti become more democratic and also more speculative as to where someone may retire years from now, I do not find the statement as a foreign influence security concern.

In sum, security concerns raised by Applicant's connections to his siblings and in-laws living in Djibouti are mitigated. Applicant has significant connections to the United States. These connections, starting at age 13, are sufficient to overcome his connection to his siblings and in-laws living in Djibouti. Foreign influence security concerns are mitigated.

Guideline H, Drug Involvement and Substance Abuse

AG ¶ 24 expresses the security concern pertaining to drug involvement: The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. Controlled substance means any "controlled substance" as defined in 21 U.S.C. 802. Substance misuse is the generic term adopted in this guideline to describe any of the behaviors listed above.

In 2006, before Applicant had any association with the U.S. Government, he used khat one time. In 2013, while holding a security clearance, he used khat one more time. He admits his khat use was a foolish mistake and showed bad judgement. He regrets his action. Khat is a Schedule I controlled substance in the United States and it is not relevant that it is legal in Djibouti.

AG ¶ 25 describes conditions that could raise a security concern and may be disqualifying and apply to Applicant. Those that are potentially applicable in this case include:

(a) any substance misuse; and

(f) any illegal drug use while granted access to classified information or holding a sensitive position.

AG ¶ 26 provides conditions that could mitigate security concerns. Two potentially apply in this case:

(a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant's use of khat was infrequent. Between 2006 and 2013, he used it twice. His last use was five years ago. His use while holding a security clearance is a concern as to his current reliability, trustworthiness, and good judgment. However, he acknowledges his use was a mistake, showed bad judgment, and he regrets his conduct. His limited use, the passage of time since his last use, and his regret concerning his actions is sufficient to convince me that recurrence is unlikely. AG ¶¶ 26(a) applies and 26(b) partially apply.

Guideline E: Personal Conduct

The concerns for personal conduct are articulated in AG ¶ 15: Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information.

A condition that could potentially raise a security concern and may be disqualifying is listed in AG ¶ 16:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

In June 2015, when Applicant completed his e-QIP he failed to list his use of khat in 2013. He should have listed his khat use since it is illegal in the United States. As previously stated, the fact that it is legal in Djibouti does not excuse his drug use from being a security concern. However, he has acknowledged his poor judgement and bad behavior. He reported the usage during his CI interview. It is unknown if his admission was before he was confronted with the facts. A single khat use at an engagement party in 2013 is not something that a CI reviewer is likely to know and would specifically question Applicant about. More likely when Applicant was asked if he ever used and illegal drug, he voluntarily reported his khat usage. AG ¶ 17(a) applies.

Applicant's single use in 2013 is considered infrequent. His failure to list his use on single question on a single e-QIP is also infrequent. The mitigating condition listed in AG ¶ 17(c) "the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgement," applies. Having acknowledged his conduct was a foolish mistake and bad judgment, it is unlikely to recur and does not cast doubt on Applicant's current reliability, trustworthiness, or good judgment.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration” of the guidelines and the whole-person concept. My comments under Guidelines B, E, and H are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant came to the United States as a refugee during a period of civil war in Djibouti. He was raised in the United States. His children, four brothers, and sister are citizens and residents of the United States. His wife is a permanent U.S. resident living in the United States.

Applicant has been employed more than seven years as a linguist for the U.S. Army. Acting as a linguist in support of U.S. forces is a factor weighing heavily in Applicant’s favor. His employment as a linguist shows a deep and longstanding loyalty to the United States whereby the Applicant can be expected to resolve any conflict of interest in favor of the U.S. interests. I find his response when asked about protecting U.S. secrets very telling and a factor in the expectation that Applicant would resolve any issues in favor of U.S. interests. He said his wife and children’s lives depend on keeping U.S. secrets and he would rather give up his life than put his daughter in harm’s way.

Applicant having made contributions to national security in support of the U.S. Army, I believe Applicant can be relied upon to recognize, resist, and report any attempts at coercion or exploitation. His willingness to assume risk on behalf of the United States shows his ties and sense of obligations to the United States are sufficiently strong to find he has mitigated the foreign influence security concerns.

Applicant’s 2013 use of khat while holding a clearance was an infrequent event. He should have listed it in his e-QIP, but did inform the CI reviewer of his use. I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude that foreign influence, drug involvement and substance misuse, and personal conduct security concerns are mitigated. It is consistent with the interests of national security to grant Applicant security clearance eligibility.

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 – 1.f: For Applicant

Paragraph 2, Guideline H, Drug Involvement
And Substance Misuse: FOR APPLICANT

Subparagraph 2.a: For Applicant

Paragraph 3, Guideline E, Personal Conduct: FOR APPLICANT

Subparagraph 3.a: For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

CLAUDE R. HEINY II
Administrative Judge