

KEYWORD: Foreign Influence

DIGEST: The government's evidence failed to establish that Applicant was at heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion because of his limited family connections to Lebanon. Clearance granted.

CASENO: 06-24844.h1

DATE: 10/03/2007

DATE: October 3, 2007

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| In Re: |) | |
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| ----- |) | ISCR Case No. 06-24844 |
| SSN: ----- |) | |
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| Applicant for Security Clearance |) | |
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**DECISION OF ADMINISTRATIVE JUDGE
JOHN GRATTAN METZ, JR**

APPEARANCES

FOR GOVERNMENT

Gina Marine, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

_____The government's evidence failed to establish that Applicant was at heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion because of his limited family connections to Lebanon. Clearance granted.

STATEMENT OF THE CASE

Applicant challenges the 22 February 2007 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of his clearance because of unresolved foreign influence concerns.¹ He answered the SOR 14 March 2007. DOHA assigned the case to me 29 June 2007 and I convened a hearing 1 August 2007. DOHA received the transcript (Tr.) 15 August 2007.

FINDINGS OF FACT

Applicant admitted the allegations of the SOR. Accordingly, I incorporate those admissions as findings of fact. He is a 45-year-old senior systems engineer for a defense contractor since December 2004, and seeks access to classified information. During the pendency of this clearance application, he held an interim secret clearance without incident from December 2004 until December 2006.

Applicant was born in Lebanon in February 1962. He immigrated to the U.S. in 1985. He became a naturalized U.S. citizen in April 1987, and obtained his U.S. passport a few days later.

Applicant met his wife while attending graduate school in 1987. She is a native-born U.S. citizen. They have four children, all native-born U.S. citizens. Applicant's wife and children lived in Lebanon from September 1997 to March 2000 so that Applicant could come visit them on weekends. At the time, Applicant worked for a software vendor who had assigned him to clients in Saudi Arabia and Holland. Applicant's travel to Lebanon from 1997 to 2000 was related to his family visits; his trip to Lebanon in 2002 was business related. Applicant and his wife own their home in the U.S., and have substantial sums in retirement and cash accounts in the U.S. They have no financial interests in Lebanon.

Applicant's parents are long divorced. His father is a resident citizen of Lebanon who retired as a police officer in the early 1970s. He lives in an assisted living facility. Applicant has had no contact with him since 2002. Applicant's mother is also a citizen of Lebanon, but she resides with Applicant because she has been diagnosed with Alzheimer's disease. She is a retired teacher with a lump sum pension.

Applicant's brothers, sisters, and half-brother are resident citizens of Lebanon. Applicant's half brother is an automobile salesman, and Applicant cannot remember the last time he had contact with him. One brother works as a contract payroll administrator for the Lebanese Finance Ministry. His wife manages a mini-market that they own. Applicant's other brother retired three years ago as a colonel in the Lebanese Army, receiving a lump-sum pension. One of Applicant's sisters is a housewife, married to an architect. His other sister is a teacher, married to a retired Lebanese Army brigadier general.

¹Required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated 2 January 1992—as amended and modified, most recently in August 2006 (Directive).

Lebanon is a nominal democracy with a less-than-perfect human rights record. It has both a long history of civil war and of foreign influence by Syria. Lebanon is not a state sponsor of terrorism, but is a permissive environment for groups recognized by the U.S. as terrorist organizations, considered by Lebanon as “freedom fighters” against Israel. The U.S. State Department continues to maintain a travel warning for U.S. citizens contemplating travel to Lebanon.

Applicant’s supervisor, coworker, and facility security officer attested to Applicant work ethic and trustworthiness. In addition, he has never had a security violation.

POLICIES AND BURDENS

The Directive, Enclosure 2 lists adjudicative guidelines to be considered in evaluating an Applicant’s suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative 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. Considering the SOR allegations and the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline B (Foreign Influence).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant’s security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government’s case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their 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.²

CONCLUSIONS

Under Guideline B (Foreign Influence), an applicant’s foreign contacts and interests may raise security concerns if the individual 1) has divided loyalties or foreign financial interests, 2) may be manipulated or induced to help a foreign person, group, organization, or government in a way contrary to U.S. interests, or 3) is vulnerable to pressure or coercion by any foreign interest. Foreign

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

influence adjudications 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, whether the country is known to target U.S. citizens to obtain protected information and/or is associated with a risk of terrorism.³ Evaluation of an individual’s qualifications for access to protected information requires careful assessment of both the foreign entity’s willingness and ability to target protected information, and to target ex-patriots who are U.S. citizens to obtain that information, and the individual’s susceptibility to influence, whether negative or positive. More specifically, an individual’s contacts with foreign family members (or other foreign entities or persons) raise security concerns only if those contacts create a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion.⁴

In this case, the government failed to establish a case for disqualification under Guideline B. Considering first the country involved, Lebanon and the U.S. enjoy good foreign relations. It has not been demonstrated that the Lebanese government is actively engaged in the collection of U.S. intelligence such that would make Applicant or his family likely targets for coercion, duress, or influence. The government’s evidence explains the links to terrorism that are on-going in Lebanon and the way that those terrorist organizations operate, the increase in terrorism, and the increase in membership in terrorist groups. Several of the groups that are frequently in the news, for example Hizballah and Hamas, operate in Lebanon and practice terrorist acts against Israelis and against U.S. citizens as well as indiscriminate violence in order to draw attention to themselves and increase their membership and their power. There is no indication they use terrorism to gain access to U.S. information.

Considering Applicant’s circumstances, the government produced no evidence that there was a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion because of Applicant’s limited family contacts in Lebanon. None of Applicant’s family members have an direct connection to the Lebanese government, and there is nothing in the past connections of his father, his brother, or his brother-in-law to raise a concern over protecting classified information. Further, Applicant has been in the U.S. more than 22 years. His wife and children are here All his financial interests are here. His contacts with family members range in Lebanon range from nearly non-existent to casual, but there is nothing in the circumstances of their being in Lebanon, or in Applicant’s contacts with them, to heighten the risk that he could be impelled or compelled to provide protected information to Lebanon. Under these circumstances, I conclude that it is unlikely Applicant can be pressured based on his family members in Lebanon. Accordingly, I resolve Guideline B for Applicant.

FORMAL FINDINGS

Paragraph 1. Guideline B: FOR APPLICANT

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| Subparagraph a: | For Applicant |
| Subparagraph b: | For Applicant |
| Subparagraph c: | For Applicant |

³Revised Adjudicative Guidelines, ¶ 6.

⁴Revised Adjudicative Guidelines, ¶ 7.(a).

Subparagraph d: For Applicant
Subparagraph e: For Applicant
Subparagraph f: For Applicant
Subparagraph g: For Applicant
Subparagraph h: For Applicant
Subparagraph i: For Applicant

DECISION

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

**John G. Metz, Jr.
Administrative Judge**