



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



In the matter of:)
)
) ISCR Case No. 07-18283
)
)
Applicant for Security Clearance)

Appearances

For Government: Emilo Jaksetic, Department Counsel
For Applicant: Eric A. Eisen, Esquire

February 6, 2009

Decision

HEINY, Claude R., Administrative Judge:

Applicant is an Iranian born, naturalized U.S. citizen, who has lived in the United States since 1975. Applicant’s four siblings are citizens and residents of Iran. In 1992, Applicant became a U.S. citizen and has held a security clearance since 1993. Since 1975, Applicant has traveled to Iran four times with the last visit in 2002. Applicant has rebutted or mitigated the government’s security concerns under Guideline B, foreign influence. Clearance is granted.

Statement of Case

Applicant contests the Defense Department’s intent to deny or revoke his eligibility for an industrial security clearance. Acting under the relevant Executive Order and DoD Directive,¹ the Defense Office of Hearings and Appeals (DOHA) issued to

¹ Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative

Applicant a Statement of Reasons (SOR) on July 9, 2008, detailing security concerns under foreign influence.

On July 22, 2008, Applicant answered the SOR, and requested a hearing. On September 23, 2008, I was assigned the case. On October 7, 2008, DOHA issued a notice of hearing scheduling the hearing held on October 29, 2008. The government offered Exhibits (Ex.) 1 through 6, which were admitted into evidence. Applicant testified on his own behalf and submitted Exhibits A through E, which were admitted into evidence. On November 6, 2008, the transcript (Tr.) was received.

Procedural and Evidentiary Rulings

Request for Administrative Notice

Department Counsel submitted a formal request that I take administrative notice of certain facts relating to Iran. The request and the attached documents were not admitted into evidence but were included in the record as Hearing Exhibits (HEX) I—XVII. The facts administratively noticed are set out in the Findings of Fact, below.

Request to Submit Additional Material

On December 10, 2008, I received an e-mail from Applicant's counsel asking that the record be opened to allow additional testimony to be added to the record. At the hearing, Applicant stated his foreign relatives did not know what he did. Applicant's counsel asserts, if asked, Applicant would have stated even his wife did not know he had a clearance prior to this proceeding.

Department Counsel objects to the request to reopen the record to allow Applicant to offer additional testimony. Department Counsel cites ISCR Case No. 03-20327 (App. Bd. October 26, 2006) and ISCR Case No. 03-22643 (App. Bd. June 24, 2005). Department Counsel stated if additional post-hearing testimony is permitted there would be no way to cross-examination Applicant as provided for under Directive, Additional Procedural Guidance, Paragraph E3.1.16 and Prehearing Guidance, Paragraph 12. Department Counsel's objection was sustained. The material was attached to the record, but not admitted as evidence.

Applicant submitted one document, a seven page letter, which was not offered as evidence but as argument. Department counsel had no objection to it being considered as argument. It was marked and admitted as Hearing Exhibit (HEX.) 1.² (Tr. 19)

guidelines (AG) approved by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

² The document should have been marked and admitted as HEX. XVIII.

Findings of Fact

In his Answer to the SOR, Applicant admitted the factual allegations. He also provided additional information to support his request for eligibility for a security clearance.

Applicant is a 51-year-old software engineer and scientist who has worked for a defense contractor since November 1987, and has held a secret security clearance since July 1993. The projects he works on are related to the sun and are readily available in professional literature of an unclassified nature. (Ex. 5, Ex. A) In 1993, he obtained a secret clearance. Applicant has received four achievement awards for his work performance. (Ex. B) Friends, coworkers, and supervisors speak highly of Applicant and his work. They believe Applicant's work has been superior and deserving of special recognition. He is a hard-worker known for attention to detail, thoroughness, problem solving, patience, seriousness, diligence, mature judgment, dedication, his work ethic, and perseverance. His work is professional and of excellent quality. He is an exemplary employee. (Ex. B, C)

In 1957, Applicant was born in Iran. Applicant's father died while Applicant was in high school. In 1975, following high school graduation, Applicant came to the United States on a student visa. In 1979, while Applicant was still in school, the Shah of Iran was overthrown and an Islamic state emerged. Applicant loves his family, but his views are in opposition of the current Iranian regime. (Ex 3) He does not like the Iranian government and believes it to be a nightmare for Iran. (Ex. 4) Applicant earned a Bachelor of Science degree in civil engineering and decided to remain in the U.S. Following graduation, he was unable to secure employment in his field of study.

In 1984, Applicant met his wife, married, moved to another state to be close to his wife's relatives, and enrolled at university. (Tr. 46, 47) Three children were born of his marriage. His oldest son, now 26, graduated from college with a business degree and is self-supporting. His daughter is an art education major, who is graduating this year. His youngest son is in his second year at university. His marriage ended in divorce in 1990. Since his divorce, Applicant remains close to this children.

In 1987, he earned two additional Bachelor of Science degrees, one in mathematics and the other in computer science. Upon graduation, he obtained employment with his present employer. (Tr. 48) In October 1992, Applicant became a naturalized U.S. citizen. Since becoming a citizen, Applicant has regularly voted in federal, state, and local U.S. elections. (Tr. 103) In 1997, Applicant earned a Master of Science degree in software engineering. (Tr. 97)

In 1994, Applicant remarried an American citizen from the Philippines who works as a nurse's aid. His wife does not hold a Filipino passport and does not consider herself to be a Filipino citizen. (Ex. 4) They have two children ages 2 and 9. (Tr. 51) All of Applicant's children were born in the U.S. Applicant has \$300,000 in equity in his home and \$350,000 in his 401(k) retirement plan. (Tr. 55-56, Ex. E)

Applicant's father ran an auto parts store. (Tr. 42) Applicant has a brother, three sisters and a half-sister. (Tr. 42) His parents are both dead. None of his siblings work for the Iranian government. None of his siblings have ever visited him in the U.S. (Ex 4) Applicant does not discuss with them where he works or what he does. (Ex. 5) Applicant has not sent a letter to any of his siblings during the past 25 years. (Tr. 70, Ex. 5) Applicant's half-sister now lives in Canada. (Tr. 70) As of February 2007, Applicant had not talked to his half-sister for four or five years due to a conflict with the rest of the family. (Tr. 77, Ex 5) Applicant had an aunt living in the U.S. who died a few days before his mother. (Tr. 80) He has cousins living in the U.S. who are American citizens. (Tr. 80)

Applicant's mother, prior her death was a housewife. His brother is a retired ophthalmologist.³ Three of his sisters are housewives. One sister is widowed. One is married to an oil refinery worker, who may be retired now, and their daughter is an art major studying in at a university in Kansas. His other sister's husband owes a travel agency. (Tr. 79) None of his siblings know what he does. He has never talked about it and they never asked. (Tr. 69)

Military service is required all males in Iran. However, Applicant never served in the Iranian military. In 1995, Applicant returned to Iran. He was then 37-years-old and had passed the age of military conscription. (Tr. 63) He decided to visit his mother and siblings whom he had not seen in 20 years. Even though he was now a U.S. citizen, Applicant was told by the Interest Section (IS) of the Islamic Republic of Iran that he could not obtain a visa to enter Iran using a U.S. passport, because Iran considers him to be an Iranian citizen due to his birth in Iran. (Ex. 4) Applicant obtained an Iranian passport and went to Iran.

Although married, he went to Iran by himself for he did not know what to expect, thought it might be dangerous, and did not want to subject his wife to possible danger. (Tr. 64) He had been gone 20 years and entered Iran as if he was entering a foreign country. He found a country much transformed. The people lacked basic freedom and "things were like nearly all in shades of gray." (Tr. 65) His trip made him appreciate even more the freedom and civil liberties enjoyed in the U.S.

Applicant's Iranian passport expired in November 2002. (Ex 5) In April 2008, Applicant surrendered his expired Iranian passport to his company's facility security officer (FSO). (Tr. 88, Ex. 6)

In 1998, Applicant returned to Iran, this time with his wife, to introduce his wife to his mother and family. Applicant's Iranian passport was changed to include his wife. (Ex. 4, 5) That passport allowed him to visit Iran for a period of up to four months accompanied by his spouse and one child. He stayed two to three weeks in Iran. (Tr. 67) In 2001, following the birth of his daughter, he returned to Iran to attend his niece's wedding. (Ex. 5) In 2002, Applicant made his last trip to Iran. He was in London on

³ Ophthalmology is the branch of medicine that deals with the diagnosis and treatment of eye disorders.

business and decided to make a final visit to see and say goodbye to his mother, who was elderly and suffering with health problems (Tr. 68, 76)

At that time, his Iranian passport was due to expire and he did not intend to renew it. He realized that without an Iranian passport he would not be allowed to enter Iran. Applicant used his Iranian passport only on his travels to Iran.

Applicant considers himself an American citizen and not an Iranian citizen. (Ex. 4) Applicant fully informed his employer of his Iranian trips. In 2007, Applicant's mother died. Applicant did not attend her funeral. Since her death, Applicant has made a few telephone calls to his relatives in Iran related to his mother's death and on the anniversaries of her death. (Tr. 82, 84) Applicant has in-laws, cousins, nieces, and nephews living in Iran. His contact with these individuals is even less than with his siblings. Applicant has no property or financial interest in Iran. In 2007, he was elected the president of his homeowner's association. He has no intent of returning to Iran. (Tr. 88) He is extremely proud of being a U.S. citizen. (Tr. 101)

Iran

Iran is a constitutional Islamic republic with a theocratic system of government in which Shi'a Muslim clergy dominate the key power structures, and ultimate political authority is vested in a learned religious scholar. The U.S. has not had diplomatic relations with Iran since 1980. The President's National Security Strategy has stated that the United States "may face no greater challenge from a single country than from Iran."

The U.S. Government has defined the areas of objectionable Iranian behavior as:

- Iran's efforts to acquire nuclear weapons and other weapons of mass destruction;
- Its support for and involvement in international terrorism;
- Its support for violent opposition to the Middle East peace process;
- Its dismal human rights record; and
- Iran's intervention in the internal affairs of Iraq.⁴

The U.S. has designated and characterized Iran as the most active state sponsor of terrorism. Iran provides critical support to non-state terrorist groups. The government of Iran has committed numerous, serious human rights abuses against the Iranian people. Abuses include political killings and incarceration; summary executions, including of minors; disappearances; religious persecution; torture; arbitrary arrest and detention, including prolonged solitary confinement; denial of due process; severe restrictions on civil liberties - speech, press, assembly, association, movement and privacy; severe restrictions on freedom of religion; official corruption; violence and legal

⁴U.S. Department of State; Country Reports on Terrorism, Chapter 3 – State Sponsors of Terrorism Overview, dated April 30, 2008, U.S. Department of State, State Sponsors of Terrorism.

and societal discrimination against women, ethnic and religious minorities, and homosexuals; trafficking in persons; and child labor.

The State Department continues to warn U.S. citizens to consider carefully the risks of travel to Iran. U.S. citizens who were born in Iran and the children of Iranian citizens—even those without Iranian passports who do not consider themselves Iranian—are considered Iranian citizens by Iranian authorities, since Iran does not recognize dual citizenship. Therefore, despite the fact that these individuals hold U.S. citizenship, under Iranian law, they must enter and exit Iran on an Iranian passport, unless the Iranian government has recognized a formal renunciation or loss of Iranian citizenship. U.S.-Iranian dual nationals have been denied permission to enter/depart Iran using their U.S. passport; they even had their U.S. passports confiscated upon arrival or departure. U.S.-Iranian dual citizens have been detained and harassed by the Iranian government. Iranian security personnel may place foreign visitors under surveillance. Hotel rooms, telephones and fax machines may be monitored, and personnel possessions in hotel rooms may be searched.

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, which are useful 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 over-arching adjudicative goal is a fair, impartial and common sense decision. 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 as to obtaining 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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 as to 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 expresses the security concerns regarding foreign influence:

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 U.S. interests, or is vulnerable to pressure or coercion by any foreign interest. 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.

In every case where a sibling lives overseas, there is a risk of pressure on this relative and through them upon the holder of a security clearance. Under the facts of this case, a heightened risk for exploitation, inducement, manipulation pressure, or coercion is substantiated. However, Applicant has significant ties to the U.S. and few ties to Iran. While he still has four siblings living in Iran, he lives with his wife in the U.S. His five children were born in the U.S. He has no financial or property interests in Iran. He owns a home in the U.S. and his ties with the U.S. are much stronger than his ties with Iran.

However, Applicant’s brother and three sisters are citizens and residents of Iran. Having considered all of the Foreign Influence disqualifying conditions, applicable conditions that could possibly raise a security concern are AG ¶ 7(a) “contact 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” and AG ¶ 7(b)

“connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual’s obligation to protect sensitive information or technology and the individual’s desire to help a foreign person, group, or country by providing that information” apply.

AG ¶ 8 provides conditions that could mitigate security concerns:

(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 obligations 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.

In 1975, Applicant left Iran. In 1992, he became a U.S. citizen and in 1993, obtained a secret security clearance. He has been with the same employer since 1987 and his work performance has been outstanding. In 1995, twenty years after he left Iran he returned to visit his family. He has made four visits to Iran with his last visit in 2002. In 2007, his mother died and since her death his contact with his brother and three sisters who live in Iran has been limited to a couple of times a year. In April 2008, Applicant surrendered his Iranian passport, which expired in November 2002 to his company’s FSO.

AG ¶¶ 8(a) and 8(c)⁵ partially apply. Because of his limited contact with his siblings, “it is unlikely [he] will be placed in a position of having to choose between the interest of [his family living in Iran] and the interest of the U.S.” His infrequent contacts (twice a year) and not particularly close relationship with his siblings since his mother’s death have a very low potential for forcing him to choose between the United States and Iran. He met his burden of showing there is “little likelihood that [his relationship with his Iranian siblings] could create a risk of foreign influence or exploitation. “ However AG ¶¶ 8(a) and 8(b) cannot be fully applied because of Iran’s hostile relationship with the U.S and Iran’s negative human rights record makes it more likely that Iran would violate the law to gain classified information.

While danger certainly exists for all who go to Iran, Applicant and his siblings are in no greater danger than any other individual living and working in Iran. Applicant is in less danger since he no longer travels to Iran. None of his siblings know what he does. He has never talked about it and they never asked.

There is no evidence that terrorists or the Iranian Government have approached or threatened Applicant or his siblings for any reason. There is no evidence that his siblings living in Iran currently engages in activities which would bring attention to them or that they or other Iranian elements are even aware of Applicant’s work. As such, there is a reduced possibility that his siblings or Applicant would be targets for coercion or exploitation. None of Applicant siblings work for a foreign government and none are involved with organizations which seek to harm the U.S.

⁵ In ISCR Case No. 06-17838 at 4 (App. Bd. Jan. 28, 2008), the Appeal Board discussed the precedential value of the decisions predating the revision of the Adjudicative Guidelines indicated in n. 3, *supra*, and determined where the language of the Directive is unchanged or not substantively altered, the precedent remains valid. AG ¶ 8(c) apparently adopted the Appeal Board’s interpretation of Foreign Influence Mitigating Condition 1 (FIMC 1) under the previous guidelines. The Appeal Board had determined that contacts with relatives living in a foreign country must be both casual and infrequent to apply FIMC 1. See ISCR Case No. 04-12500 at 4 (App. Bd. Oct. 26, 2006). Moreover, contacts with such family members are presumed to be “not casual.” *Id.* In the analysis of countervailing evidence, it is legal error to give significant weight to any of the following facts or factors: applicant’s ties to the United States (ISCR Case No. 02-13595 at 5 (App. Bd. May 10, 2005)); lack of prominence of relatives living in a foreign country (*Id.*); “family members’ low-key and noncontroversial lifestyle, and the fact that the Iranian government has not contacted them about Applicant” (ISCR Case No. 04-12500 at 4 (App. Bd. Oct. 26, 2006)); one relative living in a foreign country may be sufficient to negate FIMC 1 (ISCR Case No. 03-02382 at 5 (App. Bd. Feb. 15, 2006)); a foreign relative’s fragile health (ISCR Case No. 02-29403 at 4 (App. Bd. Dec. 14, 2004)), advanced age (ISCR Case No. 02-00305 at 7 (App. Bd. Feb. 12, 2003), financial independence (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005), or lack of financial dependency upon applicant (ISCR Case No. 03-15205 at 4 (App. Bd. Jan 21, 2005)); foreign relatives spend part of each year in the U.S. (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the lack of any connection between the foreign relative and the foreign government in question (ISCR Case No. 02-31154 at 6 (App. Bd. Sep. 22, 2005)); the absence of any attempt at exploitation in the past (ISCR Case No. 03-15205 at 4 (App. Bd. Jan. 21, 2005)); a foreign country’s friendly relationship with the U.S., its stable, democratic government, or its extensive foreign military agreements with the United States (ISCR Case No. 02-22461 at 5-6 (App. Bd. Oct. 27, 2005)) and an applicant’s “refusal to travel to Iran” and “meticulous work habits and practice of strictly following the rules relating to his work” (ISCR Case No. 03-15205 at 3 (App. Bd. Jan. 21, 2005)). Notwithstanding the Appeal Board’s position, I conclude that many of these attributes are pertinent to the analysis in this case under the whole person concept.

AG ¶ 8(b) fully applies. There is no evidence that his siblings or their spouses have been political activists, challenging the policies of the Iranian Government. There is no evidence any of them currently works or ever worked for the Iranian Government, military, or new media, or that of any other foreign government. Applicant's mother, prior her death was a housewife. His brother is a retired ophthalmologist and sisters are housewives. One sister is widowed. One is married to the owner of a travel agency. And the other is married to an oil refinery worker, who may now be retired, and their daughter is a student at a U.S. university.

Applicant's first wife, current wife, and five children are all U.S. citizens living in the U.S. He has \$300,000 in equity in his home and \$350,000 in his 401(k) retirement plan, all in the U.S. He has no foreign property or income.

Applicant was born in Iran 52 years ago. He came to the United States following high school to attend college. He obtained three BS and one MS degrees from U.S. universities. He chose to stay in the U.S., following the 1979 fall of the Shah of Iran and the emergency of the Islamic state. Applicant loves his siblings, but his views are in opposition of the current Iranian regime. His four trips to Iran reinforced his appreciation for the freedom he has in the U.S. Applicant has "such deep and longstanding relationships and loyalties in the U.S., [he] can be expected to resolve any conflict of interest in favor of the U.S. interest."

AG ¶ 8(f) partially applies because he has no interest in foreign property and he has significant U.S. property and assets. AG ¶ 8(f) does not fully apply because the SOR and record do not raise AG ¶ 7(e). Since becoming a U.S. citizen, he has voted in U.S. elections. These mitigating conditions taken together are sufficient to fully overcome the foreign influence security concerns.

There is little likelihood that Applicant will be placed in a position of having to choose between the interests of the U.S. and a foreign entity. Likewise, because of his close ties and his loyalties to the U.S., including his wife and five children (all U.S. born citizens), he would resolve any conflict of interest in favor of the U.S.

Whole Person Concept

Protection of our national security is of paramount concern. Security clearance decisions are not intended to assign guilt or to impose further punishment for past transgressions. Rather, the objective of the adjudicative process is the fair-minded, commonsense assessment of a person's trustworthiness and fitness for access to classified information. In reaching this decision, I have considered the whole person concept in evaluating Applicant's risk and vulnerability in protecting our national interests. I considered the totality of Applicant's family ties to Iran and the heavy burden an Applicant carries when he has family members in a foreign country, such as Iran.

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(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

In 1975, Applicant came to the U.S. In 1992, he became a U.S. citizen and obtained a security clearance the following year. He has held a clearance more than 15 years. However, merely having held a clearance is not in and of itself a reason to continue the retention of a clearance, but having been granted a clearance one must ask what has changed since that grant. Applicant was a naturalized U.S. citizen then as he is now. Then, he had foreign relatives consisting of his mother and four siblings. Now, he still has his siblings, but his closest relative, his mother has died. With her death, his communication with his four siblings has been reduced to one or two contacts a year.

Following the grant of the clearance, he traveled to Iran four times and held an Iranian passport. Now, he no longer travels to Iran and has surrendered the expired Iranian passport to his FSO. He has no intention of ever returning to Iran. He chose not to return to Iran even for his mother's funeral. Then, he was divorced from a U.S. citizen and had three children. Now he is married to a U.S. citizen and has five children, all born in the U.S. Then he had worked for his employer six years. Now he has worked for his employer 21 years. Then, he had lived in the U.S. for 18 years. Now, he has lived here for 33 years.

Applicant does not intent to return to Iran. His family, property, and future are in the U.S. I have carefully weighed the evidence in favor of Applicant against the government's concerns about Applicant's ability to protect classified information. I have considered the Iranian government's hostile relationship with the U.S. and unwillingness to comply with international law and respect the human rights of Iranians and former Iranians. I find that there is little potential for Applicant to be pressured, coerced, or exploited because he has siblings living in Iran. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the foreign influence security concerns.

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: FOR APPLICANT

Subparagraph 1.a – 1.d: 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 eligibility for a security clearance. Eligibility for access to classified information is granted.

CLAUDE R. HEINY II
Administrative Judge