

KEYWORD: Guideline B; Guideline E

DIGEST: Applicant maintains regular contact with numerous relatives—aunts, uncles, and cousins—who are citizens and residents of Iraq. He made conflicting statements concerning his security-significant circumstances. For example, he advised his clearance interviewer and he had no plans to renounce his Iraqi citizenship, though at about the same time he presented a signed statement announcing his willingness to do so. In a security-screening interview conducted about two months later, he stated that he would not renounce his Iraqi citizenship. Adverse decision affirmed.

CASE NO: 18-02177.a1

DATE: 11/14/2019

DATE: November 14, 2019

_____)	
In Re:)	
)	
-----)	ISCR Case No. 18-02177
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 7, 2018, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On September 5, 2019, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Pamela C. Benson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge’s findings of fact contained errors and whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. The Judge’s favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm.

The Judge’s Findings of Fact

The Judge made the following findings pertinent to the issues raised on appeal: Applicant was born in Iraq. He came to the U.S. in the late 2000s, along with his parents and siblings. He and his family became U.S. citizens about five years later. Applicant is unmarried and has no children. He is seeking a security clearance in connection with an offer of employment. Applicant maintains regular contact with numerous relatives—aunts, uncles, and cousins—who are citizens and residents of Iraq. He made conflicting statements concerning his security-significant circumstances. For example, he advised his clearance interviewer and he had no plans to renounce his Iraqi citizenship, though at about the same time he presented a signed statement announcing his willingness to do so. In a security-screening interview conducted about two months later, he stated that he would not renounce his Iraqi citizenship.

Applicant made other inconsistent statements. In his security-screening interview, for example, he advised that he was uncertain if he would remain in the U.S. because Iraq is his home. He also stated that he is more loyal to Iraq, though he changed that response to the effect that he is loyal to the U.S. first but considers himself loyal to the country of his birth as well. At the hearing, he denied having stated that he was more loyal to Iraq, surmising that the interviewer misunderstood his answer.

Iraq is a key partner with the U.S. in the Middle East and plays an increasingly constructive role in the region. However, U.S. citizens in Iraq are at high risk of violence or kidnaping, and the State Department warns them not to travel there. The Islamic State of Iraq and Syria, a terrorist organization, operates within Iraq, although its territorial control has drastically diminished over the past two years. Human rights violations continue to be a problem in Iraq.

The Judge’s Analysis

The Judge noted evidence that “Applicant maintains regular and continuing contact with his uncles, aunts, and cousins in Iraq.” Decision at 9. She cited to Applicant’s inconsistent statements about his devotion to Iraq and his intent to return there in the future. She concluded that Applicant’s connections in Iraq are “too significant to mitigate in the circumstances” arising from his connections in Iraq. *Id.* The Judge cited to official notice documents that described the ongoing danger of terrorist violence in Iraq, concluding that Applicant’s connections in Iraq, viewed in the context of that country’s geopolitical situation, are not consistent with a favorable Guideline B decision.

Discussion

Applicant’s appeal brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. He challenges the Judge’s findings concerning his intent to return to Iraq as well as those concerning the frequency of his contact with his Iraqi relatives. We have examined these findings and conclude that they are based upon “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. *See* ISCR Case No. 18-01564 at 3 (App. Bd. May 30, 2019). Applicant cites to favorable aspects of the record, such as his clean criminal record and a lack of evidence that he poses a threat to U.S. security interests. Applicant’s argument is not sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 18-02250 at 3 (App. Bd. May 23, 2019).

The record supports a conclusion that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, “including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s adverse decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board