

KEYWORD: Guideline B

DIGEST: Applicant has three siblings who were citizens and residents of Iraq, including one who is a high-ranking officer in the Iraqi military and another who works for the Iraqi Government. He also has a sibling who is a citizen of Iraq and resident of another middle eastern country. Additionally, he has three siblings-in-law who are citizens and residents of Iraq. Applicant indicated that he is estranged from his siblings. Adverse decision affirmed.

CASE NO: 18-02916.a1

DATE: 11/22/2019

DATE: November 22, 2019

In Re:)	
)	
-----)	ISCR Case No. 18-02916
)	
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 January 9, 2019, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On September 11, 2019, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Caroline E. Heintzelman denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant was born in Iraq. He entered the United States illegally and shortly thereafter applied for political asylum. He, his wife, and their children became U.S. citizens about nine years ago. He has worked for defense contractors in Iraq for various periods between 2006 and 2011, including in combat areas where he was subjected to indirect fire. Since 2018, he has been working for a defense contractor in another middle eastern country. He and his wife have about \$1,000,000 in equity in U.S. real estate.

Applicant has three siblings who were citizens and residents of Iraq, including one who is a high-ranking officer in the Iraqi military and another who works for the Iraqi Government. He also has a sibling who is a citizen of Iraq and resident of another middle eastern country. Additionally, he has three siblings-in-law who are citizens and residents of Iraq. Applicant indicated that he is estranged from his siblings.

While working in Iraq between 2006 and 2011, Applicant worked with his sibling who serves in the Iraqi military. He testified that his contact with this sibling was solely professional in nature. He has not talked to his foreign siblings since at least 2014. He is described as a dedicated professional and has received certificates of appreciation and letters of recommendation.

Numerous terrorist and insurgent groups are active in Iraq and regularly attack Iraqi security forces and civilians. The U.S. Department of State warns that travel there is very dangerous. Iraq also has widespread corruption and human rights problems.

The Judge’s Analysis

“Applicant has ongoing familial connections with his three siblings and their families [in Iraq]. Although his contact with these individuals has decreased over time, these relationships create a heightened risk of foreign pressure or attempted exploitation because of the risk of terrorism.” Decision at 6. Instability and terrorism in Iraq presents an unacceptable risk that Applicant may be

placed in position of having to choose between U.S. and foreign interests. Moreover, his sibling's position as a high-ranking military officer creates an undue risk.

Discussion

In his appeal brief, Applicant states that he has successfully served as a Federal contractor for almost 15 years, that he has received numerous accolades, and that he has never had a relationship with his sibling who serves in the Iraqi military. His arguments fail to establish that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3. Applicant has not established that the Judge committed any harmful error. The decision is sustainable on the record.

Order

The Decision is **AFFIRMED**.

Signed: Michael Ra'anan
Michael 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