DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
POST OFFICE BOX 3656
ARLINGTON, VIRGINIA 22203
(703) 696-4759

Date: January 29, 2025

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In the matter of:)
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-----) ISCR Case No. 24-00609
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Applicant for Security Clearance)
_____)

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Julie R. Mendez, Esq., Chief Department Counsel

FOR APPLICANT
Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On April 29, 2024, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision – security concerns raised under Guideline B (Foreign Influence) of the National Security Adjudicative Guidelines (AG) of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing, which was held on August 6, 2024. On November 20, 2024, Defense Office of Hearings and Appeals Administrative Judge Pamela C. Benson denied Applicant security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30. For reasons stated below, we affirm the Judge's decision.

Under Guideline B, the SOR alleged security concerns raised by Applicant's family members in Iraq, some of whom are connected to the Iraqi government. In his response to the SOR Applicant admitted all allegations. The Judge found against Applicant as to six of the allegations and in his favor as to two others.

On appeal, Applicant broadly alleges that the Judge made factual errors but does not challenge any specific factual findings. Rather, he argues that the Judge did not appropriately weigh the facts relative to the Mitigating Conditions and whole-person analysis. This challenge largely conflates "facts" with "conclusions." However, regardless of this, the allegations of error are without merit because the Judge's factual findings and conclusions are amply supported by the record. The Judge adequately addressed Applicant's circumstances in her decision and reasonably concluded that Applicant's Iraqi relatives pose an unmitigated security concern.

In essence, Applicant is advocating for an alternative weighing of the evidence. An applicant's disagreement with the judge's weighing of the evidence or an ability to argue for a different interpretation of the evidence is not sufficient to demonstrate that the judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *E.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). Moreover, Applicant's arguments fail to rebut the presumption that the Judge considered all of the record evidence. The mere presence of some favorable or mitigating evidence does not require the Judge to make an overall favorable determination in the face of disqualifying conduct such as Applicant's. *E.g.* ISCR Case No. 04-08975 at 2 (App. Bd. Aug. 4, 2006).

The record supports a conclusion that the Judge examined the relevant evidence 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)). Her conclusions and adverse decision are 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). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

ORDER

The decision in ISCR Case No. 24-00609 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board

Signed: James B. Norman
James B. Norman
Administrative Judge
Member, Appeal Board