

KEYWORD: Guideline B; Guideline C

DIGEST: Applicant has three siblings who are residents and citizens of Taiwan. He has a Taiwan passport which he has used in lieu of his U.S. passport. He owns an interest in two apartments in Taiwan. He has traveled several times to Taiwan and six times to the People's Republic of China between 1999 and 2005. The Judge has drawn a rational connection between the facts found and his ultimate adverse decision. Unfavorable decision affirmed.

CASENO: 06-24420.a1

DATE: 02/05/2008

DATE: February 5, 2008

In Re:	)	
	)	
-----	)	ISCR Case No. 06-24420
	)	
Applicant for Security Clearance	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 18, 2007, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) and

Guideline C (Foreign Preference) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On September 26, 2007, after the hearing, Administrative Judge Charles D. Ablard denied Applicant's request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.<sup>1</sup>

Applicant raised the following issues on appeal: whether certain of the Judge's factual findings were error; and whether the Judge's adverse security clearance decision is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge made the following findings of fact: Applicant is employed as a principal software engineer for a major defense contractor. He emigrated to the U.S. from Taiwan in 1986 after earning degrees in electrical engineering and physics. He obtained a Masters degree in the U.S. and became as citizen of this country in 1996. He has held a U.S. passport since 1997.

Applicant has two brothers and one sister who are citizens and residents of Taiwan. He has made several trips to that country and, in addition, has traveled to the People's Republic of China (PRC) six times between 1999 and 2005, this last instance occurring after the issuance of the SOR. Applicant holds a Taiwan passport, which he has turned over to the security office of his employer until such time as he no longer needs a security clearance. He used that passport in lieu of his U.S. one during two of his trips to Taiwan. He owns an interest with his brothers in two apartments in Taiwan.

Applicant challenges a number of the Judge's findings. For example, Applicant contends that the Judge erred in finding that he has never desired a security clearance "until it was suggested by his company." Decision at 3. We have examined the record and conclude that the challenged findings are based upon substantial evidence. We have also considered the totality of the unchallenged findings. To the extent that the Judge's challenged findings may contain error, however, we conclude that it is harmless, in that it did not likely affect the outcome of the case. *See* ISCR 01-23362 (App. Bd. Jun. 5, 2006).

In evaluating Applicant's case the Judge took into account favorable information, such as his excellent work record, his financial holdings in the U.S., and his relatively limited contact with his foreign siblings. However, the Judge also balanced that evidence against the security concerns raised by Applicant's frequent trips to Taiwan and the PRC, his use of a Taiwanese passport, and the fact that both Taiwan and the PRC engage in intelligence gathering against the U.S.<sup>2</sup> He also noted that, despite the limited nature of Applicant's contact with his foreign siblings, they could still be the means through which Applicant could be subjected to pressure. The Board concludes that the Judge has drawn "a rational connection between the facts found" and his ultimate adverse decision. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). Accordingly, the Board holds that this decision is neither arbitrary, capricious, nor contrary to law.

---

<sup>1</sup>The Judge's favorable decision under SOR paragraphs 1(c), (d) and 2(a) are not at issue in this appeal.

<sup>2</sup>"There is evidence that Taiwan has engaged in economic and military espionage and that the PRC seeks to use it as a source for information as shown in the official documents of which I have taken administrative notice . . ." Decision at 5.

**Order**

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan  
Michael Y. Ra'anan  
Administrative Judge  
Chairman, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board