

KEYWORD: Guideline C

DIGEST: Applicant's appeal brief raises the possibility that Applicant submitted a document which never reached the Judge. Adverse decision remanded.

CASENO: 10-07725.a1

DATE: 08/17/2012

DATE: August 17, 2012

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In Re: )  
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 ----- ) ISCR Case No. 10-07725  
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 Applicant for Security Clearance )  
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**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 October 26, 2011, DOHA issued a statement of reasons (SOR) advising Applicant

of the basis for that decision—security concerns raised under Guideline C (Foreign Preference) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the administrative record. On June 26, 2012, after considering the record, Administrative Judge Juan J. Rivera denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The Judge’s decision states that Applicant did not respond to the File of Relevant Material (FORM). Decision at 2. Applicant filed an appeal brief containing new evidence that raised the possibility that Applicant submitted a document which never reached the Judge. We conclude that an equitable resolution of this case would be for Applicant to present the document to the Judge. Accordingly, the case is remanded to the Judge for further processing. Nothing about this action shall prejudice the appeal rights of the parties.

Signed: Michael Y. Ra’anan  
Michael Y. Ra’anan  
Administrative Judge  
Chairperson, 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