

KEYWORD: Guideline B

DIGEST: The record is incomplete. We remand the case for purpose of reconstructing the record. Adverse decision remanded.

CASENO: 12-07657.a1

DATE: 07/03/2013

DATE: July 3, 2013

In Re:)
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-----) ISCR Case No. 12-07657
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)
Applicant for Security Clearance)
)
)

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Christopher Graham, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On August 20, 2012, 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). On March 5, 2013, DOHA amended the SOR to add concerns under Guideline E (Personal Conduct). Department Counsel requested a hearing. On April 10, 2013, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Noreen A. Lynch 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 remand the case to the Judge.

As a preliminary matter, we note that the record does not contain a copy of the amendment to the SOR, nor does it contain Applicant's response. Without a complete record we cannot perform our review of Applicant's appeal. Accordingly, we remand the case to the Judge for the purpose of including the amendment to the SOR and Applicant's response in the record, in consultation with the parties. *See, e.g.*, ISCR Case No. 09-03760 (App. Bd. Jul. 16, 2010). Upon completion of that task, the case file should be returned to the Appeal Board for processing of Applicant's appeal in accordance with the Directive.

Order

The Decision is REMANDED.

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

Signed: Jeffrey D. Billett
Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

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