

DATE: March 30, 2006

In Re:

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SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-08097

**APPEARANCES**

**FOR GOVERNMENT**

Peregrine D. Russell-Hunter, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

**APPEAL BOARD SUMMARY DISPOSITION**

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 18, 2004, DOHA issued a Statement of Reasons advising Applicant of the basis for that decision--security concerns raised under Guideline B (Foreign Influence), Guideline E (Personal Conduct), and Guideline J (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended (Directive). Applicant requested a hearing. On February 24, 2006, after a hearing, Administrative Judge Michael J. Breslin denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no specific assertion of harmful error on the part of the Administrative Judge. For the most part, it consists of a restatement of facts which constitute Applicant's view of the case already proffered below. Applicant does assert a factual error in his appeal brief. He states that his brother and brother-in-law in Vietnam are fishermen and that his brother and brother-in-law are not policemen. Applicant testified at the hearing that his brother and his brother-in-law were policemen. There is no record evidence that even suggests that Applicant's brother and brother-in-law were or are fishermen. The Board cannot consider new evidence on appeal. Directive, ¶ E3.1.29. Moreover, even if Applicant's proffer on appeal could be considered, given the state of the record, he fails to establish a factual error on the part of the Judge.

The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Administrative Judge committed harmful error. Applicant has not made an allegation of harmful error. Therefore, the decision of the Administrative Judge denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

Signed: Michael D. Hipple

Michael D. Hipple

Administrative Judge

Member, Appeal Board