

DATE: February 23, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-26490

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On February 22, 2005, DOHA issued a statement of reasons 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). Applicant requested that the case be decided on the written record. On August 22, 2005, after considering the record, Administrative Judge David S. Bruce denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Administrative Judge made sustainable findings of fact, and whether the Administrative Judge's ultimate conclusions reflect a sustainable whole person analysis of Applicant's conduct and circumstances.

The Administrative Judge made the following uncontested findings of fact: Applicant's wife is a citizen of the People's Republic of China (PRC) and a Resident Alien of the United States. Applicant's wife's sister, mother and father are citizens and residents of the PRC. The Judge concluded that those facts made Guideline B Disqualifying Conditions 1 and 2 applicable to Applicant's circumstances. On appeal, Applicant challenges two specific statements in the Judge's decision: that Applicant's wife provides regular financial assistance to her parents in the PRC and that Applicant failed to provide accurate information and proof concerning his sister-in-law's employment and no information regarding her husband. The first is clearly harmless error, as Applicant himself concedes that such assistance is provided from "time to time." The second statement carries an unreasonable adverse implication that Applicant had had a responsibility to provide the information. Even so, in light of the uncontested findings of fact, there is not a significant chance that, but for the error, the Judge would have reached a different result. The Judge's analysis of Applicant's case is consistent with the Adjudicative Guidelines and reflected a plausible interpretation of the record evidence. Applicant's arguments for an alternative interpretation do demonstrate that the Judge erred.

Thus, the Administrative Judge did not commit any harmful errors in denying Applicant a clearance.

Order

The decision of the Administrative Judge denying Applicant a clearance is **AFFIRMED**.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Michael D. Hipple

Michael D. Hipple

Administrative Judge

Member, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board