

DATE: June 28, 2006

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 04-06242

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Joseph P. Drennan, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 5, 2005, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision--security concerns raised under Guideline B (Foreign Influence), pursuant to Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On November 29, 2005, after the hearing, Administrative Judge Leroy F. Foreman 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's whole-person analysis is sustainable.

Applicant argues that the Administrative Judge's whole person analysis in this case is not sustainable. The Board does not find this argument persuasive.

An Administrative Judge is required to make an overall common sense determination of an Applicant's clearance eligibility based upon a careful consideration of the whole person factors, as well as factors set forth in the guidelines. See Directive ¶¶ E2.2.1 and E2.2.3. Although the Judge analyzed this case principally in the context of the disqualifying and mitigating conditions, he referenced the whole person factors and made extensive findings of fact which indicate that he evaluated the totality of Applicant's circumstances in reaching his decision. The Judge weighed the mitigating evidence offered by Applicant against the serious of security concerns presented by Applicant's circumstances and reasonably explained why that evidence was insufficient to overcome those concerns. Given the limited record evidence in this case, the Judge's whole person analysis was sufficient and the Board does not have to agree with that analysis to conclude that it is sustainable.

Order

The Administrative Judge's favorable security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Chairman (Acting), Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board