

DATE: October 23, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-10626

APPEAL BOARD SUMMARY DISPOSITION

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 due to security concerns raised under Guideline B (Foreign Influence) of Department of Defense Directive 5220.6 (Jan. 2, 1992), as amended (Directive). On August 4, 2005, DOHA issued a statement of reasons advising Applicant of the basis for that decision, to which he responded requesting that the case be decided on the written record without a hearing. On ay 3, 2006, after considering the record, Administrative Judge Martin H. Mogul denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant does not contest adequacy of evidentiary support for any of the Administrative Judge's pertinent findings of fact, does not allege any procedural error, and does not assert that any rulings or conclusions were arbitrary, capricious or contrary to law. ⁽¹⁾ Applicant simply requests the Appeal Board to review the decision of the Judge and, in doing so, to consider two pages of new factual assertions and arguments by him together with 25 pages of new material concerning the foreign country involved and its relations with the United States which he printed off the internet.

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. The Board is prohibited from receiving or considering new evidence in resolving the appeal. ⁽²⁾ Therefore, the decision of the Administrative Judge denying Applicant a security clearance is AFFIRMED.

Signed: Jeffery D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

Signed: David M. White

David M. White

Administrative Judge

Member, Appeal Board

1. See Directive ¶¶ E3.1.30, E3.1.32. Applicant asks the Board to note that the Judge incorrectly stated his year of birth as being 1961 when, in fact, it was 1959. That factual inaccuracy had no bearing on the Judge's conclusions and was clearly harmless error.

2. Directive ¶ E3.1.29.