

DATE: February 14, 2001

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In Re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 99-0480

**APPEAL BOARD DECISION  
ON APPLICANT'S REQUEST  
FOR RECONSIDERATION**

**APPEARANCES**

**FOR GOVERNMENT**

Matthew E. Malone, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

On November 28, 2000, the Board issued an Appeal Board Decision and Reversal Order ("Decision") in this case. Applicant submitted a Reconsideration Request, dated January 16, 2001 ("Request"). Applicant also submitted a document, dated January 23, 2001, in support of his Request. On January 26, 2001, Department Counsel submitted its response to Applicant's Request. For the reasons that follow, the Board's November 28, 2000 Decision stands as issued.

The Board has the inherent authority to entertain a request to reconsider its decisions. However, there is no right to reconsideration; rather, the Board has the sole discretion to decide whether to exercise its authority to reconsider one of its decisions. *See* ISCR Case No. 98-0619 (December 27, 1999) at p. 1; ISCR Case No. 98-0621 (November 23, 1999) at pp. 1-2; ISCR Case No. 96-0785 (October 5, 1998) at pp. 1-2.

**Reconsideration Issues**

Applicant makes the following arguments in support of his Request: (1) the Board's Decision adversely affected Applicant's employment situation, his career future, and his family; (2) Applicant repeatedly offered to surrender his foreign passport to the U.S. Government, but the Government refused to accept it; (3) as an alternative, Applicant offered to destroy his foreign passport or place it in certified escrow until it expires; (4) Applicant would have surrendered his foreign passport to the foreign government that issued it if the DoD had made it clear to him that such an action was the only way to retain a security clearance; (5) many members of the counterintelligence community question the wisdom of the surrender requirement of the ASDC3I memo; and (6) Applicant has surrendered his foreign passport to the foreign government that issued it.

Department Counsel opposes Applicant's Request. In support of its opposition, Department Counsel argues: (a) Applicant's Request is untimely; (b) Applicant's Request is supported by new evidence that the Board cannot consider; (c) Applicant's Request merely restates arguments that were made on appeal and were addressed by the Board in its November 28, 2000 Decision; (d) Applicant's Request does not raise any new, legitimate issues that warrant

reconsideration; and (e) the adverse effect of a Board decision on Applicant's employment is irrelevant to a security clearance decision.

To date, the Board has not made any ruling as to when a motion for reconsideration is timely or untimely. The Board declines to do so in this case.

The Board's inherent authority to entertain a request to reconsider one of its decisions does not allow the Board to ignore pertinent provisions of DoD Directive 5220.6 ("Directive"). The Board cannot consider new evidence on appeal. Directive, Additional Procedural Guidance, Item E3.1.29. A motion for reconsideration is nothing more than an extension of an appeal because it asks the Board to reconsider its decision in an appeal. Accordingly, the Board need not address those arguments that Applicant makes based on new evidence; to do otherwise would have the practical effect of violating the Directive's prohibition concerning new evidence on appeal.

Applicant repeats some arguments that he raised on appeal. The Board addressed those arguments in its November 28, 2000 Decision. The Board concludes Applicant has failed to articulate any persuasive reason for the Board to change its resolution of those arguments.

Applicant's argument that the Board's November 28, 2000 decision has an adverse effect on him and his family fails to state a reason that would justify a different result in his case. "In most cases, it is likely that denial or revocation of a security clearance will have an adverse effect on an applicant's ability to retain employment with a defense contractor. However, that possible consequence is irrelevant to an adjudication of an applicant's security eligibility. An applicant is not made more or less suitable for a security clearance based on how a security clearance decision might affect the applicant." ISCR Case No. 98-0621 (November 23, 1999) at p. 2. *See also* ISCR Case No. 98-0435 (September 16, 1999) at p. 2 (adverse effect that an unfavorable security clearance decision might have on an applicant or an applicant's family is not relevant to determining whether an applicant is a suitable person to be granted a security clearance).

### **Conclusion**

Applicant's Request fails to set forth any persuasive reason for why the Board should change any of the rulings it made in connection with Applicant's initial appeal. Accordingly, the Board's November 28, 2000 Decision stands.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

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