



5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On May 31, 2007, after considering the record, Administrative Judge Mark W. Harvey denied Applicant's request for a favorable trustworthiness determination. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant has raised the following issue on appeal: whether the Judge's adverse trustworthiness determination under Guidelines C and B is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge found that Applicant was born in Iran in 1978. Though he became a U.S. citizen in 2003, Applicant admitted that he has exercised dual citizenship. He has maintained an Iranian passport since 1978 in order to travel to Iran and visit relatives. He intends to use the passport in the future. Applicant's parents were born in Iran but live in the U.S. as permanent residents. Iran is an active state sponsor of terrorism and is attempting to obtain weapons of mass destruction. The Iranian government has harassed and detained dual citizens of the United States and Iran.

The Appeal Board may reverse the Judge's decision to grant, deny, or revoke a trustworthiness determination if the decision is arbitrary, capricious, or contrary to law. *See* Directive ¶¶ E3.1.32.3 and E3.1.33.3. Once the government presents evidence raising trustworthiness concerns, the burden shifts to the applicant to establish any appropriate mitigating conditions. *See* Directive ¶ E3.1.15. "The application of disqualifying and mitigating conditions and whole person factors does not turn simply on a finding that one or more of them apply to the particular facts of a case. Rather, their application requires the exercise of sound discretion in light of the record evidence as a whole." *See* ADP Case No. 05-12037 at 3 (App. Bd. May 10, 2007). A trustworthiness determination must be guided by common sense in light of the record as a whole. *See* Directive ¶ E2.2.3.

In evaluating Applicant's Guideline C trustworthiness concerns, the Judge noted Applicant's retention of an Iranian passport with intent for future use. He also noted the fact that Applicant's responses to the SOR and to the File of Relevant Material do not contain an expression of willingness to renounce his Iranian citizenship. When viewed in light of the hostile nature of the Iranian regime to U.S. interests, the Judge concluded that Applicant had not met his burden of persuasion. Based on its review of the findings and the record as a whole, the Board concludes that the Judge's unfavorable trustworthiness determination is neither arbitrary, capricious, nor contrary to law. In light of this conclusion, the Board need not address the appeal issues raised under Guideline B.

**Order**

The Judge's unfavorable trustworthiness determination is AFFIRMED.

Signed: Michael Y. Ra'anan  
Michael Y. Ra'anan  
Administrative Judge  
Chairman, Appeal Board

Signed: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board