

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On March 12, 2008, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) and Guideline C (Foreign Preference) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On July 24, 2008, after the hearing, Administrative Judge Henry Lazzaro denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge’s application of the pertinent mitigating conditions was error.¹ Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a software engineer for a defense contractor. Born and raised in Iran, she attended college there, graduating in the 1990s. She met her husband in Iran. He was born in the U.S. of Iranian parents. Applicant, her husband, and his parents live in the U.S. Applicant became a naturalized U.S. citizen in the 2000s. Her parents and her one sibling are citizens and residents of Iran. Her parents have acquired resident alien status and intend to immigrate to the U.S. once they wind up their personal affairs. Applicant speaks with her parents and her sister by telephone twice a week or more.

Applicant visited Iran several times during the 2000s. She has used an Iranian passport for some of the trips. She intends to visit Iran in the future, to attend her sister’s wedding. She will also visit Iran should her family there experience health problems, etc. Neither she nor her husband own property in Iran.

Iran is “the most active state sponsor of terrorism.” Decision at 3. It is attempting to obtain nuclear weapons and other weapons of mass destruction. It supports violent opposition to the Middle East peace process and has a “dismal human rights record.” *Id.* American citizens visiting Iran are subject to harassment. “Americans of Iranian origin should consider the risk of being targeted by authorities before planning travel” there.

In the Analysis section of his decision, the Judge stated that Applicant’s case raised security concerns under Guideline B. In evaluating possible mitigating conditions, the Judge noted Applicant’s “very strong feelings of attachment . . . for her parents and sister, the comparatively short time she has been a U.S. citizen and employed by [a] defense contractor, her expressed intent to return to Iran for her sister’s wedding and any other family matters that might arise, and the nature of the Iranian Government and its relationship with the U.S.” *Id.* at 5-6. He concluded that Applicant had failed to mitigate the security concerns in her case.

In light of the record as a whole, the Judge has drawn a rational connection between the facts found and his ultimate adverse security clearance decision. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). *See also Motor Vehicle Mfrs. Ass’n of the United States v. State Farm*

¹The Judge’s favorable decision under Guideline C is not at issue in this appeal.

Mut. Auto. Ins. Co., 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s decision that “it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant” is sustainable on this record. Decision at 7. *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) (“The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security’”). Accordingly, the Judge’s adverse security clearance decision is not arbitrary, capricious, or contrary to law.

Order

The Judge’s adverse security clearance decision is AFFIRMED.

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

Signed: Michael D. Hipple

Michael D. Hipple

Administrative Judge

Member, Appeal Board

Signed: James E. Moody

James E. Moody

Administrative Judge

Member, Appeal Board