

KEYWORD: Guideline C; Guideline B

DIGEST: Each case must be decided on its own merits. Hearing Office decisions are not binding on other Hearing Office Judges nor on the Appeal Board. A judge is presumed to have considered all the record evidence. Adverse decision affirmed.

CASENO: 07-16381.a1

DATE: 04/01/2009

DATE: April 1, 2009

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In Re:	)	
	)	
-----	)	ISCR Case No. 07-16381
	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Alan V. Edmunds, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 15, 2008, DOHA issued a statement of reasons (SOR) advising Applicant of

the basis for that decision—security concerns raised under Guideline C (Foreign Preference), Guideline B (Foreign Influence), Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On January 30, 2009, after the hearing, Administrative Judge Wilford H. Ross denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge erred in failing to conclude that Applicant had mitigated the Guideline B security concerns in his case.<sup>1</sup> Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a 51-year-old employee of a Defense contractor. Born in Lebanon, he came to the U.S. to pursue his education. He became a U.S. citizen in the mid-1980s and received his B.A. degree in the year following. He married his wife, a Lebanese citizen and U.S. resident alien, in the early 2000s. Applicant’s parents and brother live in Lebanon, as does his mother-in-law. He sends between \$1,000 and \$1,400 per month to both families in Lebanon. Applicant stated during his testimony that his parents are more important to him than Lebanon, that he has loyalty to his relatives but not to Lebanon itself. Although the U.S. has close ties with Lebanon, that country has experienced social and political instability in the recent past. Lebanon’s internal policies are heavily influenced by Syria, which is a state sponsor of terrorism. Foreign terrorist organizations operate within Lebanon’s borders. These include Hezbollah, which the Lebanese government recognizes as a political party. Hezbollah is allied with Iran and has been involved in several attempts to obtain U.S. technology. Lebanon has a poor human rights record. “Militias and non-Lebanese forces operating outside the area of Lebanese central government authority have used informers and monitored telephones to obtain information about their perceived adversaries.” Decision at 4.

In support of his appeal, Applicant points to decisions by the Hearing Office, which he argues support his request for a favorable determination. The Board gives due consideration to these cases. However, each case “must be decided upon its own merits.” Directive ¶ E2.2.3. Moreover, Hearing Office decisions are binding neither on other Hearing Office Judges nor on the Board. *See* ISCR Case No. 06-24121 at 2 (App. Bd. Feb. 5, 2008). Applicant argues that the Judge did not properly consider his mitigating evidence regarding his strong ties to the U.S. However, a party’s disagreement with the Judge’s weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). A Judge is presumed to have considered all the evidence in the record unless he specifically states otherwise. *See, e.g.*, ISCR Case No 07-00196 at 3 (App. Bd. Feb. 20, 2009); ISCR Case No. 07-00553 at 2 (App. Bd. May 23, 2008).

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<sup>1</sup>The Judge’s favorable findings under Guidelines C, F, and E are not at issue in this appeal.

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for his decision, “including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm 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 national security to grant Applicant eligibility for a security clearance” is sustainable on this record. Decision at 12. *See also 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’”).

### **Order**

The Judge’s adverse security clearance decision 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