

KEYWORD: Guideline B

DIGEST: Judge’s conclusion that Applicant’s strong ties of affection to her Sudanese relatives raised security concerns was sustainable. Adverse decision affirmed.

CASE NO: 10-04330.a1

DATE: 11/17/2011

DATE: November 17, 2011

In Re:	)	
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	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 15, 2010, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On August 26, 2011, after the hearing, Administrative Judge Rita C. O’Brien denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge failed properly to apply the mitigating conditions and whether the Judge’s adverse security clearance decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a quality control manager for a Defense contractor. She was born in Sudan and came to the U.S. in the early 2000s. She attended graduate school in this country and became a U.S. citizen in the mid-2000s.

Her parents and siblings are citizens and residents of Sudan. Both her parents are retired; neither receives a government pension. Applicant's parents would like to move permanently to the U.S., and Applicant plans to sponsor them.

Applicant's Sudanese siblings are employed in Sudan. All are married, and none have served in the Sudanese military. Applicant's family lives in northern Sudan, an area not affected by recent turmoil. None are involved in politics. Applicant visits Sudan often. The Judge quoted Applicant as saying that she is "able to keep close ties with my siblings and my immediate family by calling them often, and visiting them during my annual vacations when finances permit." Decision at 3.

Sudan has been a state sponsor of terrorism. The government was implicated in the bombing, murder, and rape of displaced persons in Darfur. Although it has recently undergone positive change, its human rights record remains poor and terrorist groups operate from within its borders.

In the Analysis, the Judge stated that Applicant is bound by strong ties of affection to her Sudanese relatives, posing the risk that the relatives might become a means through which parties could attempt to coerce Applicant into compromising U.S. classified information. The Judge went on to conclude that, "[g]iven these ties to her foreign family, I cannot confidently conclude she would resolve a conflict of interest in favor of the United States." Decision at 7.

Applicant challenges the Judge's conclusion that she has strong ties of affection to her family. She contends that her ties to them are not out of the ordinary. However, the Judge did not conclude that Applicant's relationship with her family was unique. Rather, she found that Applicant's ties to her Sudanese family were close, and this finding was supported by the record evidence. *See, e.g.*, Applicant quotation cited by the Judge and noted above. These close ties, examined in the context of Sudan's status as a state sponsor of terrorism, raise security concerns under Guideline B. The Judge's ultimate conclusion, that Applicant had failed to mitigate these concerns, is sustainable.

The record supports a conclusion that the Judge examined the relevant data and articulated a satisfactory explanation for the 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 adverse decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Enclosure 2 ¶ 2(b): "Any doubt concerning personnel being considered for access to classified information will be resolved in favor 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  
Chairperson, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

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