

KEYWORD: Guideline B

DIGEST: . In Foreign Influence cases, the nature of the foreign government and the presence of terrorist activity are important considerations that provide context for other evidence and must be brought to bear on the Judge's ultimate conclusions in the case. The country's human rights record is also an important consideration. His connections with his family are commendable. A concern in a Foreign Influence case is that foreign relatives may become a means through which an applicant could come to the attention of those interested in obtaining classified information and be subjected to coercion. Applicant has not shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 14-06931.a1

DATE: 12/09/2016

DATE: December 9, 2016

_____ )	
In Re: )	
)	
----- )	ISCR Case No. 14-06931
)	
Applicant for Security Clearance )	
_____ )	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

## FOR APPLICANT

### *Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On August 20, 2015, DoD 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 decision on the written record. On October 5, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Arthur E. Marshall, Jr., 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’s adverse decision was contrary to the weight of the record evidence. Consistent with the following, we affirm.

### **The Judge’s Findings of Fact**

Born and raised in Afghanistan, Applicant came to the U.S. in the late 2000s. He lives in the U.S. with his wife and three children. Applicant became a U.S. citizen a few years ago, and his Afghani wife is a permanent resident. Applicant has numerous relatives who are citizens and residents of Afghanistan. These include his mother, siblings, and extended family members, as well as in-laws. Applicant speaks with his mother and siblings weekly. He sends money to his mother, generally about \$3,000 annually. He also provides money to his siblings. He is a co-owner of property in Afghanistan, valued at about \$100,000.

Afghanistan has a poor human rights record and, in spite of governmental efforts, is “a violent, unsafe, unstable country.” Decision at 3. Terrorist and insurgent groups, including those hostile to the U.S., operate within Afghanistan. Insurgents traffic in narcotics and kidnapping in order to finance military and technological capabilities. Such groups encourage Afghan security personnel to conduct insider attacks in an effort to undermine the trust between Afghanistan and the U.S.

### **The Judge’s Analysis**

The Judge cited to evidence of Applicant’s frequent contact with his close family members in Afghanistan. The Judge acknowledged that Applicant is well educated and experienced in a field that is valuable to the U.S. He also found that Applicant has served the U.S. well, often under dangerous conditions. He stated that Applicant’s loyalty is not at issue. However, he concluded that there is insufficient evidence in the record to mitigate the concerns arising from Applicant’s foreign family members. He stated, for example, that information about Applicant’s wife is “scant.” Decision at 7.

### **Discussion**

Applicant's brief cites to various aspects of the record in an attempt to provide context for his circumstances that would lessen their security significance. We have considered the entirety of Applicant's brief, except for some new evidence, which we are not permitted to consider. *See* Directive ¶ E3.1.29. In Foreign Influence cases, the nature of the foreign government and the presence of terrorist activity are important considerations that provide context for the other record evidence and must be brought to bear on the Judge's ultimate conclusions in the case. The country's human rights record is also an important consideration. *See, e.g.*, ISCR Case No. 05-03250 at 4-5 (App. Bd. Apr. 6, 2007). Applicant's connections with and support for his family are commendable. However, a concern in a Foreign Influence case is that foreign relatives, especially with whom the applicant communicates frequently, may become a means through which the applicant could come to the attention of those interested in obtaining U.S. classified information and be subjected to coercion. *See, e.g.*, ISCR Case No. 10-07436 at 6 (App. Bd. Oct. 19, 2011). Applicant has not shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-06686 at 2 (App. Bd. Apr. 27, 2016).

Given evidence that Applicant is married to a citizen of Afghanistan; has numerous relatives who are citizens and residents of that country; communicates frequently with his closest foreign relatives; Afghanistan is politically unstable; and groups hostile to the U.S. operate within its borders, the Judge's conclusion that Applicant had not met his burden of persuasion as to mitigation is supportable. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The 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 Decision is **AFFIRMED**.

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

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

Signed: James F. Duffy \_\_\_\_\_  
James F. Duffy  
Administrative Judge  
Member, Appeal Board