



## **The Judge's Findings of Fact**

Applicant was born and educated in China. She and her husband came to the U.S. in the mid-1990s, and she subsequently received a degree from a U.S. university. Applicant's parents, parents-in-law, and siblings are citizens and residents of China. Applicant has weekly contact with her parents. She has weekly contact with her parents-in-law as well, although she rarely talks with them herself. In 2012 and 2014, Applicant visited her parents in China.

China is an authoritarian regime ruled by the Communist Party. It collects military, economic, and industrial information from the U.S. Chinese intelligence services operate in the U.S.

## **The Judge's Analysis**

The Judge stated that Applicant has strong ties to her Chinese family members. These ties are based on Applicant's sense of duty and affection for her relatives, which are positive character traits. However, these traits also suggest that through her family members Applicant could be subject to coercion. He concluded that Applicant did not present enough evidence to mitigate the concerns arising from her ties within China. In the whole-person analysis, the Judge cited to favorable evidence but concluded that it was not sufficient to mitigate the trustworthiness concerns inherent in Applicant's circumstances. He noted that China seeks protected information from the U.S. and concluded that the record raises a real possibility that Applicant could become a target through her Chinese relatives.

## **Discussion**

Applicant's brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. Applicant challenges some of the Judge's findings. Among other things, she argues that there is a discrepancy in his finding about her contact with her Chinese in-laws. She states that it is not consistent to find that she has weekly contact with them yet rarely speaks with them herself. We note that the finding about Applicant's weekly contact with her in-laws is based upon her answers in her SF-86. Government Exhibit 1 at 32-33. In one of her own exhibits, Applicant states that her husband speaks with his parents weekly but that she herself does so only rarely. Applicant Exhibit A. We conclude that there is no actual inconsistency in the challenged finding. Applicant has identified some other errors, such as the year her child was born, which did not likely affect the outcome of the case. The Judge's material findings are based upon substantial evidence or constitute reasonable inferences from the evidence. Applicant has not identified any harmful error in the Judge's findings. *See, e.g.*, ADP Case No. 15-03377 at 3 (App. Bd. Mar. 9, 2017).

Applicant argues that the evidence shows that she is loyal to the U.S. However, an adverse result under the Directive does not constitute a judgment that an applicant is disloyal. Directive, Enclosure 1, SECTION 7. Rather, it is a recognition that the applicant's conduct or circumstances are such that he or she could be subjected to pressure to disclose protected information. Applicant's contentions on appeal are not enough to rebut the presumption that the Judge considered all of the evidence or that he weighed the evidence in a manner that was arbitrary, capricious, or contrary to

law. *See, e.g.*, ADP Case No. 15-06452 at 3 (App. Bd. Feb. 14, 2017); ADP Case No. 12-09387 at 2 (App. Bd. Apr. 26, 2016).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. There is a rational connection between an applicant's family ties in a country whose interests are adverse to the United States and the risk that the applicant might fail to protect and safeguard protected information. *See, e.g.*, ADP Case No. 14-01655 at 3-4 (App. Bd. Dec. 9, 2015). The decision is sustainable on this record. The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination "may be granted only when 'clearly consistent with the interests of the national security.'" *See, e.g.*, ADP Case No. 12-04343 at 3 (App. Bd. May 21, 2013). *See also Kaplan v. Conyers*, 733 F.3d 1148 (Fed. Cir. 2013), *cert. denied*.

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