

KEYWORD: Guideline B

DIGEST: Applicant has not rebutted the presumption that the Judge considered all of the record evidence. Adverse decision affirmed.

CASENO: 15-07294.a1

DATE: 04/19/2017

DATE: April 19, 2017

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In Re:	)	
	)	
-----	)	ISCR Case No. 15-07294
	)	
Applicant for Security Clearance	)	
_____	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 21, 2016, 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 hearing. On February 1, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello 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 arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge’s Findings of Fact**

Applicant was born in Iraq. She married a U.S. citizen, moving to this country in the mid-2000s. She became a citizen of the U.S. a few years ago. Applicant’s mother and two siblings are citizens and residents of Iraq. Applicant has provided financial support to her mother, including a gift of \$25,000 toward the purchase of a house. Her mother receives a pension from the Iraqi government. Applicant maintains regular contact with her mother. She has a strained relationship with one of her siblings. Another sibling is a government employee, who will eventually be entitled to a government pension. Applicant’s speaks with this sibling by phone “several times a week.” Decision at 3.

Applicant’s Iraqi relatives are aware of her employment by a U.S. contractor and that she is assisting the military. In 2015 Applicant underwent a counter-intelligence security screening. She advised that she had concerns about the safety of her relatives in Iraq and that if militant groups found out about her work with the U.S. her relatives would be in danger. She stated that she intended to tell her mother and siblings about her employment situation and instruct them to keep the information closely guarded.

U.S. citizens in Iraq are at risk of kidnaping and terrorist violence. The Islamic State of Iraq and the Levant controls a large portion of Iraq. Anti-U.S. militias may threaten U.S. persons and companies throughout Iraq. The country has seen a surge in terrorist attacks, and it is the greatest terrorist threat globally.

### **The Judge’s Analysis**

The Judge stated that Applicant has regular contact with all three of her Iraqi relatives. Moreover, she has provided her mother with financial support. She noted her findings about terrorist activity in Iraq and concluded that Applicant’s relatives pose a heightened risk that Applicant could be subjected to coercion. The Judge characterized Applicant’s relationship with her family members as close, noting that she speaks with them regularly. She also noted Applicant’s concern for her relatives’ safety should militia forces become aware of Applicant’s work situation. The Judge found that Applicant could be subject to a conflict of interest between her obligation to the U.S. and her concern for her family.

In the whole-person analysis, the Judge cited to evidence discussed above. She also noted that Applicant has served the U.S. under dangerous conditions. However, she found Applicant's strong family ties in Iraq to pose "an insurmountable burden" should Applicant be forced to choose between her duties to the U.S. and the welfare of her family.

### **Discussion**

Applicant contends that the Judge did not consider all of the evidence, for example that she has a strained relationship with one of her siblings, that she has a clean security record, etc. Regarding the sibling, we note Applicant's testimony that she is trying to convince her sibling to move to the U.S. Tr. at 42. This supports the Judge's conclusion that her ties with her sibling are sufficiently close to raise a security concern. Despite Applicant's arguments to the contrary, the record supports the Judge's findings and conclusions about Applicant's relationship with her Iraqi relatives. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has she demonstrated that the Judge mis-weighed the evidence. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017). Applicant cites to some other Hearing Office cases that she believes support her effort for a favorable result. We give these cases due consideration. However, Hearing Office cases are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Feb. 15, 2017).

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 Ra'anan  
Michael 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