

KEYWORD: Guideline B

DIGEST: Applicant’s brief is not enough to rebut the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 16-01733.a1

DATE: 06/20/2017

DATE: June 20, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 16-01733
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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 May 27, 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 March 22, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge David M. White 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

Born and educated in Iraq, Applicant fled the country due to threats against him and his family because of his cooperation with the U.S. During the course of a U.S. military operation he received a shrapnel wound. He received a medal from the U.S. military. He came to the U.S. in the late 2000s and became a naturalized citizen about six years later. His wife and children were born in Iraq and have become naturalized U.S. citizens as well. Applicant's parents, a sibling, and an in-law are citizens and residents of Iraq who worked for the Iraqi government and are now receiving pensions. He has two other in-laws and a blood relative who serve or have recently served in the Iraqi military.

Iraq faces many challenges, including ethnic and sectarian tension, terrorism, and the presence of the Islamic State, which controls some of the country's territory. The Department of State warns U.S. citizens to avoid travel to Iraq unless it is essential.

The Judge's Analysis

The Judge cited to Applicant's close family members in Iraq and the threats of harm that Applicant has received concerning them. The Judge noted brave and honorable service that Applicant has given the U.S. but concluded that his circumstances entail a heightened risk that he could be subjected to coercion or pressure. The Judge concluded that Applicant had not mitigated the concerns arising from his family connections in Iraq.

Discussion

Applicant's brief is not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017). Applicant has cited to a Hearing Office case in support of his appeal. However, each case must be decided on its own merits. Directive, Enclosure 2 ¶ 2(b). Given the totality of the evidence, this case does not provide a reason to disturb the Judge's overall decision.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. Close family members in a country where terrorists operate raise a concern that the applicant could be pressured to reveal classified information. *See, e.g.*, ISCR Case No. 14-06675 at 3 (App. Bd. Mar. 4, 2016). 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