

KEYWORD: Guideline B

DIGEST: The Directive presumes a nexus between admitted or proved facts under any of the guidelines and an applicant’s security eligibility. Applicant’s contacts in a country with terrorist activity raise an issue of a heightened risk of foreign exploitation, coercion, etc. Adverse decision affirmed.

CASE NO: 15-08842.a1

DATE: 02/14/2017

DATE: February 14, 2017

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In Re:)	
)	
-----)	ISCR Case No. 15-08842
)	
)	
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 May 3, 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 November 18, 2016, 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 issues on appeal: whether the Judge erred in concluding that his connections to Afghanistan raised security concerns and 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

Educated in Afghanistan, Applicant came to the U.S. in 2008. He became a naturalized U.S. citizen in 2013. Applicant's parents, siblings, and stepmother are citizens and residents of Afghanistan. His father retired from the Afghan military and was twice imprisoned by the Taliban. Applicant testified that he speaks with his parents on holidays and with his mother every six months. In his security clearance application, however, he stated that he spoke with his parents and siblings each month.

Between mid-2011 and early 2014, Applicant lived with his parents in Afghanistan because of his unemployment. Applicant was married but has since divorced. His father had arranged the marriage. His sibling assisted in completing the paperwork for the divorce.

The State Department warns U.S. citizens not to travel in Afghanistan due to political instability and terrorist threats. Extremist groups operate within Afghanistan, and the country continues to experience coordinated attacks by the Taliban and other terrorist organizations. Afghanistan has significant human rights problems, such as torture of detainees, disregard for the rule of law, and little accountability for those committing abuses.

The Judge's Analysis

The Judge noted that close relations with someone who is a citizen and resident of a foreign country is not *per se* disqualifying. However, under the facts of this case, she concluded that evidence of Applicant's close family ties in Afghanistan, the presence of terrorist activity in that country, and Afghanistan's poor human rights record create a heightened risk of foreign exploitation, inducement, coercion, etc. In evaluating Applicant's case for mitigation, she noted that he has regular contact with his family members, even if the frequency of such contact has diminished in the past two years. She also cited to the influence of his father in Applicant's marriage, suggesting a degree of closeness in the relationship. The Judge concluded that the evidence left her with questions and doubts about Applicant's eligibility for a clearance.

Discussion

Applicant argues that he has minimal contact with his family in Afghanistan and that there is no heightened risk of exploitation. We note first of all that the Government does not have to present objective evidence of a nexus between an applicant's foreign connections and his security worthiness. *See, e.g.*, ISCR Case No. 12-00084 at 3 (App. Bd. May 22, 2014). Rather, the Directive presumes a nexus between admitted or proved facts under any of the guidelines and an applicant's eligibility for a clearance. *See, e.g.*, ISCR Case No. 14-06653 at 3 (App. Bd. Nov. 18, 2016). As the Judge noted, Applicant's contacts in a country with terrorist activities raise an issue of a

heightened risk of foreign exploitation, manipulation, coercion, etc. Decision at 7-9. Given the Judge's findings about Applicant's close family relations in Afghanistan, the geopolitical situation of that country, and his father's having come to the attention of the Taliban on some prior occasions, we find no reason to disturb her heightened risk analysis.

Applicant's appeal brief amounts to a disagreement with the Judge's weighing of the evidence. However, this is not enough to show 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). 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