

KEYWORD: Guideline B; Guideline E

DIGEST: Applicant's parents and three of his siblings are citizens and residents of Iraq. None of these relatives are affiliated with the Iraqi government. Applicant has sent between \$200 and \$500 to his parents eight or nine times, and he has sent his siblings money as well. Adverse decision affirmed.

CASENO: 16-01423.a1

DATE: 10/25/2018

DATE: October 25, 2018

In Re:)
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Applicant for Security Clearance)
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ISCR Case No. 16-01423

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Department Counsel

FOR APPLICANT

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 22, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On August 2, 2018, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Shari Dam 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. The Judge’s favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm.

The Judge’s Findings of Fact and Analysis

Applicant was born in Iraq, coming to the U.S. in the late 2000s. He worked at various jobs and attended college for a while. He has also worked for the U.S. military. He visited his family in Iraq in 2012 and became a U.S. citizen a few years later. In his current job he has deployed to Iraq in support of U.S. objectives, and a military officer commended his duty performance and described him as “one of the best.” Decision at 3. Applicant’s parents and three of his siblings are citizens and residents of Iraq. None of these relatives are affiliated with the Iraqi government. Applicant spoke with his mother about three times in 2017 and once this year. He does not speak with his father at all, and he communicates with his siblings occasionally. Applicant has sent between \$200 and \$500 to his parents eight or nine times, and he has sent his siblings money as well. Applicant has about \$55,000 in a U.S. bank, owns no property in this country, and has no assets in Iraq. Numerous terrorist groups are active in Iraq. The Islamic state controls some of the country’s territory. The U.S. State Department warns U.S. citizens to avoid traveling to Iraq. There are also human rights violations in that country.

The Judge concluded that Applicant’s Iraqi relatives and his financial assistance to them creates a heightened risk of foreign pressure as well as a possible conflict of interest. She found Applicant’s favorable evidence to be insufficient to outweigh the concerns arising from his foreign relatives. In the whole-person analysis, the Judge cited to evidence of Applicant’s services to the U.S. and his professed loyalty to this country. However, she concluded that Applicant’s limited connections in the U.S., his lack of a permanent residence here, and his financial support to his foreign relatives outweigh his favorable evidence.

Discussion

Applicant argues that the Judge failed to consider all of the evidence in the record, for example: his history of assistance to the U.S., his family’s lack of formal connection with the Iraqi government, his various ties within the U.S., and what he characterizes as the relatively limited nature of his financial support to his Iraqi relatives. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record or to show that she weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR

Case No. 17-02145 at 3 (App. Bd. Sep. 10, 2018). We give due consideration to the case that Applicant has cited in his brief. However, Hearing Office cases are not binding on other Hearing Office Judges or on the Appeal Board. Each case must be decided on its own merits. *Id.*

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, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board

Signed: Charles C. Hale

Charles C. Hale
Administrative Judge
Member, Appeal Board