KEYWORD: Guideline B

DIGEST: Applicant contends that his relationship with his father is casual. This argument is not persuasive. He has weekly contact with his father, provided him about $30,000 in support between 2012 and 2017, and is sponsoring him for immigration to the United States. He failed to rebut the presumption that contacts with immediate family members are not casual. Adverse decision affirmed.

CASENO: 17-03981.a1

DATE: 09/27/2018

DATE: September 27, 2018

In Re:	)	
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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 December 20, 2017, 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 decision on the written record. On July 17, 2018, after considering the record, 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 and Analysis

Applicant was born overseas and became a U.S. citizen in 2016. He attended college in the U.S. but did not graduate. He has worked for Federal contractors.

Applicant's father is a citizen of one Middle Eastern country and resides in another. Both of those countries have serious terrorism and human rights issues. His father served as a high-level official for a foreign intelligence service. In the mid-2000s, his family was threatened by terrorists, and they, without the father, fled to another country as refugees. Applicant provided differing accounts about his father's whereabouts and the length of his father's service in the intelligence field. He maintains weekly contact with his father and estimated that he has sent about $30,000 to him between 2012 and 2017. Applicant has submitted U.S. immigration paperwork for his father and that process is pending.

Applicant's relationship with his father creates a heightened risk of foreign influence. This risk is significant because of his father's career and the threats the family has previously received. "There is insufficient information about Applicant's father, his job, and potential continued connections in the intelligence field." Decision at 8. These security concerns are not mitigated.

Discussion

Applicant contends that his relationship with his father is casual. This argument is not persuasive. He has weekly contact with his father, provided him about $30,000 in support between 2012 and 2017, and is sponsoring him for immigration to the United States. He failed to rebut the presumption that contacts with immediate family members are not casual. *See, e.g.*, ISCR Case No. 02-28838 at 2 (App. Bd. Jun. 12, 2006).

Applicant also argues that the Judge failed to consider all of the record evidence, mis-weighed the evidence, and misapplied the mitigating conditions and whole-person concept. His arguments, however, are neither enough to rebut the presumption that the Judge considered all of the record evidence nor sufficient 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. 17-02488 at 3 (App. Bd. Aug. 30,

2018). We give due consideration to the Hearing Office case that Applicant's Counsel has cited, but it is neither binding precedent on the Appeal Board nor sufficient to undermine the Judge's decision. *Id.* at 4. "Each case must be judged on its own merits." Directive, Encl. 2, App. A ¶ 2(b).

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: Michael Ra'anan
Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: Charles C. Hale
Charles C. Hale
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board