

KEYWORD: Guideline C; Guideline B

DIGEST: The Judge found that there is a significant possibility that the Iranian government could subject Applicant to pressure, coercion, exploitation or duress in light of that regime’s brutal nature and the presence of Applicant’s immediate family in that country. Adverse decision affirmed.

CASENO: 06-17164.a1

DATE: 06/21/2007

DATE: June 21, 2007

In Re:)	
)	
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SSN: -----)	ISCR Case No. 06-17164
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On August 16, 2006, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline C (Foreign Preference) and Guideline B (Foreign Influence) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as

amended) (Directive). Applicant requested a hearing. On January 16, 2007, after the hearing, Administrative Judge Mark W. Harvey denied Applicant's request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.¹

Applicant raises the following issue on appeal: whether the Judge erred by concluding that Applicant had not mitigated the security concerns under Guideline B. Applicant provides citations to other DOHA cases, to include cases by Hearing Office Judges, which he believes support his appeal. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a senior engineer for a defense contractor. His father, mother, two sisters, mother-in-law, and sister-in-law are citizens of Iran and either live in or visit Iran. His parents are elderly, living in Iran about half the year and in the U.S. the other half. Applicant provides some financial support for his parents. When they are residing in the U.S., the parents receive phone calls about once a month from Applicant's sister who lives in Iran.

The older of Applicant's sisters was staying in the U.S. with Applicant at the time of his hearing. She has applied for green cards for her sons and hopes to become a U.S. citizen herself. The younger sister lives in Iran. She is married to a university professor who received his Ph.D. from a U.S. university. Two of their three children were born in the U.S. and they hope to move to this country.

Applicant's three daughters were born in the U.S. and, therefore, are U.S. citizens. None of his Iranian relatives know what he does for a living. Applicant has held a security clearance from 1990 to 1992 and an interim clearance from 2004 to 2006.

Iran has an authoritarian government which abuses human rights, to include summary execution, torture, arbitrary arrest, and prolonged solitary confinement. The Iranian government actively supports terrorism against the U.S.

We have examined Applicant's assignment of error in light of the Judge's unchallenged findings and the record as a whole. In his analysis, the Judge noted record evidence favorable to Applicant, such as the high quality of his job performance, his financial and personal ties to the U.S., and the fact that his Iranian relatives do not live in such a fashion as to draw the attention of their government.

He also noted, however, the number of Applicant's close family members who are citizens of Iran,² the fact that his contact with them is neither casual nor infrequent,³ and the brutal nature of

¹The Judge's favorable decision under Guideline C is not at issue in this appeal.

²See Directive ¶ E2.A2.2.1. "A security risk may exist when an individual's immediate family, including cohabitants, and other persons to whom he or she may be bound by affection, influence, or obligation are not citizens of the United States or may be subject to duress." See ISCR Case No. 03-26176 at 5 (App. Bd. Oct. 14, 2005) ("Applicant's in-laws represent a class of persons who are contemplated by the Directive as presenting a potential security risk").

³ See Directive ¶ E2.A2.1.3.3.

the Iranian regime. He concluded that “there is a significant possibility” that the Iranian government could subject him to “pressure, coercion, exploitation, or duress” by means of those relatives. Therefore, he denied Applicant a clearance. Decision at 14. We conclude that the Judge has articulated a rational connection between his findings and his ultimate decision. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. June 2, 2006). We have considered Applicant’s brief on appeal. We note that decisions of the Hearing Office Judges are not binding on this Board or on other Hearing Office Judges. *See* ISCR Case No. 03-26115 at 3 (App. Bd. Apr. 5, 2007). We hold that the Judge’s decision is not arbitrary, capricious, or contrary to law.

Order

The Judge’s decision denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairman, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board