

KEYWORD: Guideline B; Guideline C; Guideline M

DIGEST: Case remanded for Judge to consider evidence submitted but not included in the record. Adverse decision remanded.

CASENO: 08-01980.a1

DATE: 04/16/2009

DATE: April 16, 2009

In Re:	)	
	)	
-----	)	ISCR Case No. 08-01980
	)	
Applicant for Security Clearance	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James Duffy, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 14, 2008, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence), Guideline C (Foreign Preference) and Guideline M (Use of Information Technology Systems) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 24, 2009, after the hearing, Administrative Judge Erin C. Hogan denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

On April 1, 2009, Applicant filed a notice of appeal that explicitly relied on evidence that was not before the Judge. On April 14, 2009, Applicant filed an appeal brief which also relied on that evidence. On April 14, 2009, Department Counsel filed a response to Applicant's brief stating that under the facts of this case expedited remand would be the equitable resolution to put the pertinent evidence before the Administrative Judge. Accordingly, in the interest of administrative economy, the case is hereby remanded to the Judge for further processing. Nothing about this action shall prejudice the appeal rights of the parties.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan  
Administrative Judge  
Chairman, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board