

KEYWORD: Guideline F; Guideline B

DIGEST: Judge’s conclusion that Applicant had failed to demonstrate diligence in paying off delinquent debts is sustainable. Applicant’s Egyptian relatives raise security concerns that Applicant failed to mitigate. Adverse decision affirmed.

CASENO: 08-06925.a1

DATE: 08/24/2010

DATE: August 24, 2010

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In Re:)	
)	
-----)	ISCR Case No. 08-06925
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Tarek H. Zohdy, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On June 18, 2009, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline B (Foreign Influence) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On April 28, 2010, after the hearing, Administrative Judge Juan J. Rivera 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’s decision under Guideline F was contrary to the weight of the record evidence; whether the Judge erred in his

application of the Guideline B mitigating conditions; and whether the Judge’s whole-person analysis was in error. Consistent with the following discussion, we affirm the Judge’s decision.

The Judge made the following pertinent findings of fact: Applicant is a linguist working for a Defense contractor. She was born, raised, and educated in Egypt.

Applicant first traveled to the U.S. in the late 1970s. She and her husband immigrated to this country in the 1980s and became U.S. citizens in the early 1990s. She has three siblings, two of whom are citizens and residents of the U.S. and one of whom is a citizen and resident of Egypt. She contacts her Egyptian sibling approximately twice a month.

Applicant also has in-laws who are citizens and residents of Egypt. In addition, her husband has an uncle who, in his late teens, had belonged to a terrorist organization. He is now a citizen and resident of the U.S. and teaches at a U.S. university. Before becoming a U.S. citizen, Applicant’s husband was an official in an Egyptian governmental organization.

Applicant and her siblings inherited a house and land in Egypt. Applicant intends to renounce her interest in the property. She has traveled to Egypt in order to visit relatives and to sightsee.

Applicant has delinquent debts owed to a department store and to a utility company. Although she claims to have disputed these debts, she provided no corroboration.

Egypt has an excellent relationship with the U.S. and receives substantial U.S. foreign aid. However, terrorist groups carry out attacks in Egypt, targeting U.S. interests. “Terrorist groups conduct intelligence activities as effectively as state intelligence services.” Decision at 8.

Applicant requests that the Board exercise *de novo* review over her appeal. However, the Board does not have authority to review a case *de novo*. See Directive ¶ E3.1.32. See also ISCR Case No. 08-10204 at 3 (App. Bd. Jun. 21, 2010).

In evaluating the Guideline F security concerns, the Judge noted that Applicant had paid off a number of her debts or had reasonably disputed others. However, as to the remaining ones cited in the SOR, his decision that she had failed to show diligence in attempting to resolve them is supportable. Concerning Guideline B, the extent of Applicant’s foreign relatives, to include in-laws,¹ supports the Judge’s adverse conclusion. Applicant has not demonstrated that the Judge weighed the record evidence in an arbitrary or capricious manner. See, e.g., ISCR Case No. 06-21819 at 2 (App. Bd. Aug. 13, 2009).

After reviewing the record, we conclude that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, “including a ‘rational connection between the

¹ “[I]n-laws represent a class of persons who are contemplated by the Directive as presenting a potential security risk . . . [T]here is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of the person’s spouse.” ISCR Case No. 03-26176 at 5 (App. Bd. Oct. 14, 2005).

facts found and the choice made.” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s adverse 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).

Order

The Judge’s adverse security clearance decision is AFFIRMED.

Signed: Jeffrey D. Billett

Jeffrey D. Billett
Administrative Judge
Member, 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