

KEYWORD: Guideline B; Guideline F

DIGEST: Board cannot address issues on appeal because file is missing both Government and Applicant exhibits. The Board remands to the case to the Judge to produce a complete record. Adverse decision remanded.

CASENO: 09-03114.a1

DATE: 08/26/2010

DATE: August 26, 2010

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In Re:	)	
-----	)	ISCR Case No. 09-03114
	)	
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 September 22, 2009, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) and Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On June 15, 2010, after the hearing, Administrative Judge Marc E. Curry denied Applicant’s request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issues on appeal: (1) whether the Judge erred by finding that Applicant had four siblings residing in Syria; and (2) whether the Judge’s adverse security clearance

decision was arbitrary, capricious, and contrary to law. Consistent with the following discussion, we remand the case.

As a preliminary issue, we note that the case file does not contain Government Exhibits 1-7, the documents submitted by Department Counsel and admitted at the hearing. Tr. at p. 8. Additionally, the case file does not contain Applicant's Exhibits A through K, which were submitted by Applicant and admitted at the hearing. Tr. at p. 11. In addition, the Board notes that the parties and the Judge discussed 12 "Court Exhibits." Tr. at pp. 22-27.

Without a complete record we cannot perform appellate review. Accordingly, we remand the case to the Judge for the purpose of reconstructing the record in consultation with the parties. Inasmuch as Applicant's appeal brief could be construed as raising an issue concerning the admissibility of an excluded document, that document needs to be included in the record as well. Upon completion of record reconstruction, the case file should be returned to the Board for processing of Applicant's appeal in accordance with the Directive.

### **Order**

The Judge's adverse security clearance decision is REMANDED.

Signed: Michael Y. Ra'anan

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

Signed: Jeffrey D. Billett

Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin  
Administrative Judge  
Member, Appeal Board