

KEYWORD: Guideline B

DIGEST: The Judge concluded that Applicant's Pakistani relatives, his contacts with them, and the geopolitical situation of that country raised Guideline B security concerns that were not mitigated. The Judge's conclusions are supported by the record evidence. Adverse decision affirmed.

CASE NO: 11-01920.a1

DATE: 12/08/2011

DATE: December 8, 2011

In Re:)
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Applicant for Security Clearance)
_____)

ISCR Case No. 11-01920

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 April 22, 2011, DOHA 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 September 27, 2011, after considering the record, Administrative Judge Robert E. Coacher 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 failed to consider all of the record evidence; whether the Judge mis-weighed the record evidence; and whether the Judge’s adverse security clearance decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a consultant for a Defense contractor. Born in Pakistan, he came to the U.S. in the early 1980s to pursue his education, receiving a Master’s and a Ph.D. Applicant became a U.S. citizen in the early 2000s. He has voted in U.S. elections since becoming a citizen and has performed jury duty. His daughter and her family reside in the U.S.

Applicant has several relatives who are citizens and residents of Pakistan—two siblings and two step-siblings. Applicant has an in-law who is retired from the Pakistani military, having held a high rank. Applicant has visited Pakistan twice in the mid to late 2000s. Applicant communicates with his relatives with varying degrees of frequency—from monthly to once every year or two.

Pakistan has supported the U.S. in its war on terror. However, terrorist groups operate from within its border, and several areas are terrorist safe havens. American citizens visiting that country have been kidnaped and held for ransom, and the human rights situation of Pakistan is poor.

In the Analysis portion of the Decision, the Judge concluded that Applicant’s Pakistani relatives, his contacts with them, and the geopolitical situation of that country raised Guideline B security concerns. He further concluded that Applicant had not fully mitigated the security concerns raised.

Applicant contends that the Judge failed to consider all of the record evidence. He cites to several pieces of evidence, including evidence that his relatives are not affiliated with any political group, that his in-law who is a retired military officer is not affiliated with the government, as well as evidence of Applicant’s academic attainments and his character references. However, a Judge is presumed to have considered all of the record evidence. Applicant cites to nothing that would tend to rebut that presumption, nor to anything that would establish that the Judge weighed the evidence in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 10-07080 at 2 (App. Bd. Oct. 12, 2011).

Applicant’s admissions, and the Judge’s unchallenged findings, regarding Applicant’s family contacts in Pakistan, that country’s human rights record, the presence of terrorist activity there, and

other geopolitical factors support the Judge's decision.¹ The Judge examined the relevant data and articulated a satisfactory explanation for the decision, "including a 'rational connection between the 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). *See also* Directive, Enclosure 2 ¶ 2(b): "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security."

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan
Administrative Judge
Chairperson, 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

¹*See, e.g.*, ISCR Case No. 05-03250 at 4 (App. Bd. Apr. 6, 2007) (In a Foreign Influence case, the presence of terrorist activity in a foreign country is an important consideration that "must be brought to bear on the Judge's ultimate conclusions in the case.") *See also* ISCR Case No. 03-26176 at 5 (App. Bd. Oct. 14, 2005), for discussion of security significance of in-laws in a foreign country.