

KEYWORD: Guideline B; Guideline C

DIGEST: The Judge agreed to hold the record open after the hearing until October 5, 2012 for the receipt of supplemental written materials. The Judge then issued a final decision on September 28, 2012. Adverse decision remanded.

CASENO: 11-06577.a1

DATE: 11/09/2012

DATE: November 9, 2012

|                                  |   |                        |
|----------------------------------|---|------------------------|
| In Re:                           | ) |                        |
|                                  | ) |                        |
| -----                            | ) | ISCR Case No. 11-06577 |
|                                  | ) |                        |
| Applicant for Security Clearance | ) |                        |

**APPEAL BOARD SUMMARY REMAND**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Larry S. Loigman, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 23, 2012, 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 C (Foreign Preference) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On September 28, 2012, after the hearing,

Administrative Judge Arthur E. Marshall, Jr. denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

On October 12, 2012, Applicant filed a request for Expedited Remand. On October 15, 2012, the Chief Department Counsel filed a response to the Applicant's request stating that he had no objection.

At the commencement of the hearing, Applicant's counsel requested that the record be held open for the submission of supplemental written materials. Department Counsel had no objection to the request, and the Judge announced that the record would remain open until October 5, 2012.<sup>1</sup> Applicant submitted six documents for inclusion in the record on October 4-5, 2012. However, the Judge had issued a final decision on September 28, 2012.

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  
Chairperson, Appeal Board

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

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

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<sup>1</sup>Tr. 7-8.