

KEYWORD: Guideline B

DIGEST: The Judge noted that, although Applicant had substantial assets in the U.S., there is an increased possibility that Applicant’s family could become a means through which Applicant could be coerced, considering his frequent contacts with his mother and other relatives, as well as the geopolitical context of the two countries involved. The record supports the Judge’s conclusions. Adverse decision affirmed.

CASE NO: 12-00327.a1

DATE: 03/19/2013

DATE: March 19, 2012

In Re:	)	
	)	
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	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On August 13, 2012, DoD 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 hearing. On

December 27, 2012, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Joan Caton Anthony denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant was born and raised in India. He and his wife, who is also Indian, were married in the late 1990s and became U.S. citizens in the mid-2000s. Applicant had come to the U.S. as an employee of an Indian company, and he earned an advanced degree from a U.S. university. In the mid-1990s, Applicant's parents moved from India to another country and became citizens there. His father has died. Applicant speaks with his mother about once a week.

Applicant has numerous siblings, who live in India and in the other country. He speaks with one of them once or twice a year and visits him about once a year. He speaks with some of his other siblings once or twice a year.

India and the other country enjoy friendly relations with the U.S., although terrorist activities have occurred within the two countries. Both have been identified as collectors of U.S. proprietary data.

### **The Judge's Analysis**

In the Analysis, the Judge concluded that Applicant's foreign family members raised security concerns. She noted that he had substantial assets in the U.S., but she concluded that there is an increased possibility that Applicant's family could become a means through which Applicant could be coerced. In making this conclusion she noted his frequent contacts with his mother and other relatives, as well as the geopolitical context of the two countries involved.

### **Discussion**

We have considered Applicant's brief, which includes a reference to the circumstances of his foreign relatives, from which he argues that they are not of the sort likely to come to the attention of terrorists or other parties adverse to the U.S. We find no reason to believe that the Judge did not properly weigh the evidence or that she failed to consider all of the evidence in the record. *See, e.g.*, ISCR Case No. 11-06622 at 4 (App. Bd. Jul, 2, 2012). We have considered the totality of Applicant's arguments on appeal and find no error in the Judge's ultimate conclusions regarding mitigation.

The record supports a conclusion that 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 Decision is **AFFIRMED**.

Signed: Jeffrey D. Billett

Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields

William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board