

KEYWORD: Guideline B; Guideline F; Guideline E

DIGEST: Given the record evidence of the extent of Applicant’s family connections in Afghanistan and the activities of terrorist organizations there, the Judge’s adverse decision under Guideline B is supportable.

CASENO: 12-02141.a1

DATE: 11/13/2013

DATE: November 13, 2013

In Re:)	
)	
-----)	ISCR Case No. 12-02141
)	
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 December 7, 2012, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence), Guideline F (Financial Considerations), and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6

(Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On August 29, 2013, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Francisco Mendez 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 the evidence and whether the Judge mis-weighed the evidence. The Judge's favorable findings under Guidelines F and E are not at issue in this appeal. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant was born in Afghanistan and immigrated to the U.S. in the late 1980s. He was naturalized a citizen of this country in the early 2000s. He works for a Defense contractor and enjoys an excellent reputation for the quality of his work and for his reliability.

Applicant's mother, wife, and children are citizens and residents of Afghanistan. He speaks with them frequently and is their sole source of support. Applicant has not advised his family that he works for the U.S. Government, and he has moved them to a safer location in Afghanistan. He has hired an attorney to facilitate his family's move to the U.S. at some time in the future.

After the attacks of September 11, 2001, the U.S. and its allies liberated Afghanistan from the Taliban. Although it has made significant progress since then, the country still faces challenges, including the presence within its borders of various terrorist groups. Authorities have limited ability to maintain order and ensure the safety of Afghan citizens and foreign visitors.

The Judge's Analysis

The Judge concluded that Applicant's family circumstances raised concerns under Guideline B. In evaluating his case for mitigation, the Judge stated that Applicant's family presence in Afghanistan "raises a significant security concern because of the realistic danger that they can be used by hostile forces within Afghanistan to influence or manipulate him." Decision at 6. He stated that, despite Applicant's attempts to shield his family from danger, they remain vulnerable to the threat posed by extremist elements in the country. In the whole-person analysis, the Judge cited to evidence of Applicant's service to the U.S. Nevertheless, he concluded that Applicant had not mitigated the concerns arising from his family circumstances.

Discussion

Applicant cites to evidence that he has moved his family to a safer location in Afghanistan. We construe this as an argument that the Judge did not consider this evidence. The Judge made a finding about this matter and discussed it in his Analysis. However, given record evidence of the extent of Applicant's family connections in Afghanistan and the activities of terrorist organizations there, the Judge's adverse decision is supportable. *See* ISCR Case No. 12-05609 at 2 (App. Bd. Sep. 4, 2013) (The presence of terrorist activity in a foreign country is a significant factor in Guideline B cases.) Applicant has not rebutted the presumption that the Judge considered all of the evidence.

Neither has he demonstrated that the Judge mis-weighed the evidence. *See, e.g.*, ISCR Case No. 10-00989 at 2 (App. Bd. Mar. 25, 2011).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The 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: 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: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board