



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 15-07129  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Andrew Henderson, Esq., Department Counsel  
For Applicant: Ryan C. Nerney, Esq.

October 6, 2017

**Decision**

MOGUL, Martin H., Administrative Judge:

**Statement of the Case**

On May 10, 2016, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guideline B.<sup>1</sup> The SOR further informed Applicant that, based on information available to the government, DoD adjudicators could not make the preliminary affirmative finding it is clearly consistent with the national interest to grant or continue Applicant’s security clearance.

On June 4, 2016, Applicant submitted a written reply to the SOR, and requested that the case be decided after a hearing before an administrative judge. The case was assigned to this administrative judge on July 5, 2017. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on May 11, 2017, scheduling the

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<sup>1</sup> I considered the previous Adjudicative Guidelines, effective September 1, 2006, as well as the new Adjudicative Guidelines, effective June 8, 2017. My decision would be the same if the case was considered under the previous Adjudicative Guidelines, effective September 1, 2006.

hearing for August 15, 2017. The hearing was convened as scheduled. The case was assigned to me on July 5, 2017, after being initially assigned to another administrative judge.

At the hearing, the Government offered Exhibits 1 through 4, which were admitted without objection. Applicant testified on his own behalf and submitted Exhibits A through I, which were also admitted without objection. On August 17, 2017, I proposed to the parties by email that this case was appropriate for a summary disposition in Applicant's favor. Applicant's Counsel and Department Counsel had 10 days to consider the matter and written notice was provided that neither party objected.

### **Findings of Fact**

Applicant was born in Afghanistan. He moved to the United States in 1997 and became a United States citizen in 2003.

The allegations concerning Guideline B were that several of Applicant's relatives, including his son, and two sisters are citizens and residents of Iraq. It was also alleged that he has a brother, who is a citizen of Sweden and resident of Iran; a sister, who is a citizen of Iraq residing in France; and a sister who is a citizen and resident of Sweden. Finally, it was alleged that between 1998 and 2003, Applicant sent approximately \$2,500 to his family in Iraq. Based on the record evidence as a whole, I conclude that Department Counsel presented sufficient evidence to establish the facts alleged in the SOR under Guideline B, with the exception that Applicant has three sons, all of whom are United States citizens and residents.

I also conclude that Applicant presented sufficient evidence to explain, extenuate, or mitigate the facts admitted by Applicant or proven by Department Counsel. I considered that Applicant has limited contact with his relatives, who are not United States citizens and residents, and that the money he sent to his family in Iraq was for his sick mother, who is now deceased. Additionally, I considered that Applicant's three sons are United States citizens and residents, and he owns his own home in the United States, worth approximately \$275,000. Finally, I considered the many mitigating documents offered into evidence on behalf of Applicant. Therefore, I conclude that the security concerns are resolved under the following mitigating conditions under Guideline B: AG ¶¶ 8(a) and 8(b).

The concerns over Applicant's history of foreign influence do not create doubt about his current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole and considered whether or not the favorable evidence outweighed the unfavorable evidence. I also gave due consideration to the whole-person concept.

Accordingly, I conclude that Applicant has met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant him eligibility for access to classified information. This case is decided for Applicant.

Martin H. Mogul  
Administrative Judge