

KEYWORD: Guideline I

DIGEST: In 2018, DoD requested a licensed psychologist evaluate Applicant. The psychologist diagnosed Applicant with “Schizophrenia, First Episode, currently in partial remission[;]” noted her symptoms included “bizarre delusions of reference and paranoia[;]” and concluded, “when dealing with her delusions, and when in environments that activate distress related to her schizotypal features, she is at high risk for inappropriately using, disclosing, or otherwise compromising classified or secure information or systems.” Her prognosis was poor to guarded. The psychologist indicated that the likelihood of relapse was magnified by her refusal to get treatment or follow psychiatric care recommendations. “The psychologist opined that Applicant presented an unacceptable security risk.” Adverse decision affirmed.

CASENO: 18-02536.a1

DATE: 08/01/2019

DATE: August 1, 2019

In Re:	)	
	)	
	)	
-----	)	ISCR Case No. 18-02536
	)	
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 14, 2018, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline I (Psychological Conditions) of Department

of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On June 11, 2019, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Edward W. Loughran 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 and Analysis**

Applicant, who is in her early 30s, has worked for a defense contractor for about seven years. In early 2016, she sent an email to a coworker expressing concern for her safety in the office. In that email, she indicated that her eye movements were being tracked at work, which she believed also tracked her emotions. The email also indicated that she was being monitored in other ways. She noted that the tracking was draining her mentally, physically, and emotionally and that she could not function properly knowing such monitoring was occurring. Her employer placed her on involuntary leave and recommended she see a psychiatrist and obtain counseling, which she did. A psychiatrist "could confirm no psychiatric contraindication to [Applicant] performing her job[.]" Decision at 2-3, quoting Applicant's Exhibit E. She was released to return to work without restrictions.

In 2018, DoD requested a licensed psychologist evaluate Applicant. The psychologist diagnosed Applicant with "Schizophrenia, First Episode, currently in partial remission[;]" noted her symptoms included "bizarre delusions of reference and paranoia[;]" and concluded, "when dealing with her delusions, and when in environments that activate distress related to her schizotypal features, she is at high risk for inappropriately using, disclosing, or otherwise compromising classified or secure information or systems." Decision at 3, quoting Government Exhibit (GE) 2. Her prognosis was poor to guarded. The psychologist indicated that the likelihood of relapse was magnified by her refusal to get treatment or follow psychiatric care recommendations. "The psychologist opined that Applicant presented an unacceptable security risk." Decision at 4.

Applicant disagrees with the psychologist's evaluation. She claims it contains inaccurate information and misrepresents her statements. She indicated that she would not oppose treatment if she felt it were necessary, but she believes it is not necessary.

Applicant failed to rebut the findings in the psychologist's evaluation. None of the mitigating conditions alleviate the alleged security concerns.

### **Discussion**

In her appeal brief, Applicant contends that the Judge's decision is against the great weight of the evidence introduced at the hearing and is contrary to law. She reiterates the challenges that she raised at the hearing to psychologist's evaluation by stating it is inaccurate and misquotes her statements. She asserts the evaluation was not independent, was extremely biased against her, and mis-diagnosed her. She cites to no record evidence in support of her assertions that the evaluation was not independent and was biased against her. She indicates that she has continued to work for the past three-and-a-half years without any problems. We note that Applicant did not object to the

admission of psychological evaluation into evidence at the hearing. Tr. at 18-19. Her challenges on appeal do not go towards the admission of the psychological evaluation into evidence; instead, they go to the amount of weight it should be given. Her arguments, however, are not sufficient to show that the Judge weighed the psychological evaluation or any other record evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-01717 at 4 (App. Bd. Jul. 3, 2017). Once the allegation had been proven by record evidence, Applicant was responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate the resulting security concerns. She had the ultimate burden of persuasion. Directive ¶ E3.1.15.

Applicant also contends that she was not provided the psychologist's evaluation until shortly before the hearing. Department Counsel's discovery letter (Hearing Exhibit I) reflects the psychological evaluation was mailed to her more than five weeks before the hearing. Based on our review of the record, we find no basis for concluding that Applicant was not provided the due process rights afforded her under the Directive.

Applicant has failed to establish that the Judge committed any harmful error. The Judge examined the relevant evidence 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, Encl. 2, App. A ¶ 2(b): "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

**Order**

The Decision is **AFFIRMED**.

Signed: Michael Ra'anan  
Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy  
James F. Duffy  
Administrative Judge  
Member, Appeal Board