

KEYWORD: Guideline H; Guideline E

DIGEST: Applicant contends that the main reason his security clearance was denied was because he was not interviewed before his Secret security clearance was granted. He notes that he was honest during a subsequent Top Secret clearance interview. This contention raises no allegation of harmful error on the part of the Judge. A DOHA Judge has no authority over how clearance investigations are conducted. Adverse decision affirmed.

CASENO: 19-00216.a1

DATE: 11/07/2019

DATE: November 7, 2019

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 19-00216
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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 February 28, 2019, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline H (Drug Involvement and Substance Misuse) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Department Counsel requested a hearing. On August 21, 2019, after the hearing, Administrative Judge Robert E. Coacher denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline H, the SOR alleged that Applicant used marijuana with varying frequency from 2012 to 2019, he used marijuana after being granted access to classified information in 2016, and he intends to continue to use marijuana. Under Guideline E, it alleged he falsified three responses to questions pertaining to his drug involvement in security clearance applications. The Judge found in favor of Applicant on one falsification allegation and against him on the remaining allegations.

In his appeal brief, Applicant contends that the main reason his security clearance was denied was because he was not interviewed before his Secret security clearance was granted. He notes that he was honest during a subsequent Top Secret clearance interview. This contention raises no allegation of harmful error on the part of the Judge. A DOHA Judge has no authority over how clearance investigations are conducted.

The Board does not review cases *de novo*. The Appeal Board’s authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a security clearance is affirmed.

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