

KEYWORD: Guideline G; Guideline H

DIGEST: In this case, the Judge’s decision is sustainable because Applicant has not alleged the Judge committed any harmful error. Adverse Decision Affirmed.

CASE NO: 20-01095.a1

DATE: 08/11/2021

DATE: August 11, 2021

In Re:)	
)	
-----)	ISCR Case No. 20-01095
)	
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 October 15, 2020, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that

decision—security concerns raised under Guideline G (Alcohol Consumption) and Guideline H (Drug Involvement and Substance Misuse) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On May 12, 2021, after considering the record, Administrative Judge Juan J. Rivera denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant’s appeal brief makes no assertion of harmful error on the part of the Judge. Rather, it contains documents and assertions that were not presented to the Judge for consideration. The Appeal Board, however, is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29. Applicant states that he did not understand the DOHA process, though he does not claim that the information he received was inadequate. In any event, DOHA guidance to Applicant was sufficient to place a reasonable person on notice of his rights and responsibilities.

Applicant requests the Board reconsider the Judge’s decision. As set forth in Directive ¶ E3.1.32, our scope of review is limited to addressing material issues raised by the parties to determine whether the Judge committed harmful error in his or her decision. We do not review cases *de novo*. In other words, we do not take a fresh, new look at the evidence to determine whether we agree or disagree with the Judge’s decision.

In this case, the Judge’s decision is sustainable because Applicant has not alleged the Judge committed any harmful error.

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