



DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
POST OFFICE BOX 3656
ARLINGTON, VIRGINIA 22203
(703) 696-4759

Date: February 1, 2022

In the matter of:)
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)
Applicant for Security Clearance)
_____)

ISCR Case No. 21-00814

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 July 16, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On November 30, 2021, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant was fired from a job in 2020 for attempting to falsify his timecard and is ineligible for rehire. In his analysis, the Judge stated:

While Applicant’s falsification of his shift time might by itself be considered an isolated event, his failure to fully own up to his mistake in candor and judgment with his supervisor, human resources representative, investigating OPM

investigator, and in his SOR response only compounds his lapse in candor and judgment reflected in his falsifying his shift time [Decision at 6.]

The Judge concluded that Applicant failed to mitigate the security concerns arising from the attempted timecard falsification.

In his appeal brief, Applicant states “the administrative judge has made a mistake in the decision[,]” but he fails to identify any specific error the Judge purportedly committed. Appeal Brief at 1. Applicant also states “I made a foolish mistake and I have learned my lesson.” *Id.* None of his arguments are sufficient to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 18-02592 at 5 (App. Bd. Jan. 6, 2021).

Applicant 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 the record. “The general standard is that a clearance may be granted only when ‘clearly consistent with 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 national security.”

Order

The decision is **AFFIRMED**.

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

Signed: Jennifer I. Goldstein
Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board

Signed: Moira D. Modzelewski
Moira D. Modzelewski
Administrative Judge
Member, Appeal Board