



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: July 12, 2022

In the matter of:)	
)	
-----)	ISCR Case No. 20-02538
)	
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 June 9, 2021, 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 J (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision based on the written record. On May 16, 2022, 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.

Under Guideline G, the SOR alleged that Applicant was arrested on seven occasions for alcohol-related incidents. Applicant admitted four of those allegations, including the most recent arrest that resulted in him pleading no contest to a DUI charge in September 2019 and being sentenced to four days in jail (already served) and three years of summary probation. The Judge found against Applicant on each of the Guideline G allegations.

Under Guideline J, the SOR cross-alleged the Guideline G allegations and further alleged that Applicant was arrested on four other occasions and found guilty of three of those offenses. The Judge found against Applicant on each of the Guideline J allegations.

As best we can discern, Applicant is challenging the Judge's finding that he did not provide proof of attending Alcoholic Anonymous (AA) classes. In the decision, the Judge found that Applicant reported he currently attends AA meeting when he can, but he did not document his attendance at those meetings. Decision at 3. Based on our review of the record, this finding is accurate. Applicant further indicates that he could provide proof of attendance at future AA meeting. Appeal Board, however, is prohibited from considering new evidence. Directive ¶ E3.1.29.

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

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