

#### 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. 20-02578
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 July 21, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 5, 2022, after close of 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.

Under Guideline F, the SOR alleged three bankruptcies, two federal tax delinquencies, five delinquent consumer accounts, and a gambling problem. The Judge found against Applicant on one of the alleged bankruptcies and on the gambling allegation. He found favorably for Applicant on all other Guideline F allegations. Under Guideline E, the SOR alleged that Applicant falsified his 2018 security clearance application in that he deliberately failed to disclose that he had financial problems due to gambling. It also alleged that Applicant was terminated from an employment in

2017. The Judge found against Applicant on the falsification allegation and for Applicant on the termination allegation.

On appeal, Applicant appears to have misread the Judge's findings, as he challenges the Judge's findings regarding his federal tax delinquencies and re-states his efforts to resolve those delinquencies. The Judge found favorably for Applicant on the federal tax allegations. Other than that issue, Applicant's appeal brief makes no assertion of harmful error on the part of the Judge. Rather, he notes that he requires a security clearance to retain his job and to continue to repay his tax debt. The Directive does not permit us to consider the impact of an unfavorable decision. *See*, *e.g.*, ISCR Case No. 19-01206 at 2 (App. Bd. May 13, 2020).

Applicant requests reconsideration of the decision. The Appeal Board does not review cases *de novo*. The Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Directive ¶ E3.1.32. Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a security clearance is sustainable.

**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 Modzelewski Moira Modzelewski Administrative Judge Member, Appeal Board