

Date: July 18, 2022

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In the matter of:))
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Applicant for Security Clearance))
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ISCR Case No. 21-00272

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 September 30, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline E (Personal Conduct) and Guideline F (Financial Considerations) of DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 5, 2022, after the hearing, Defense Office of Hearings and Appeals (DOHA) 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. For reasons stated below, we affirm the decision.

The Judge found in Applicant’s favor on two Guideline E allegations. Those findings have not been raised as an issue on appeal. Applicant contends there was an error made by “DOHA” regarding the third Guideline E allegation that asserts he falsified information about an employment termination in his 2020 security clearance application. Appeal Brief at 1. The Judge erred in failing to make a formal finding regarding this allegation. Section 3(7) of Executive Order 10865 provides that an adverse security clearance decision shall make findings for or against an

applicant on each SOR allegation. *See also* Directive ¶ E3.1.25. Based on the facts of this case, this error is harmless because it did not affect the outcome of the case.

Applicant contends the Judge disregarded evidence regarding his ongoing child support payments, but he does not specify the exact nature of that evidence. In addressing the child support arrearage allegation, the Judge found that Applicant presented an earnings statement for February 2022 that showed a \$253 child support deduction. Our review of the record reveals no other documentary evidence of child support payments. Applicant has failed to show the Judge erred in his examination of the evidence.

Applicant's other arguments amount to a disagreement with the Judge's weighing of the evidence. None of his arguments are sufficient to establish that the Judge weighed the evidence in 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 or that he should be granted any relief on appeal. 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 Modzelewski
Moira Modzelewski
Administrative Judge
Member, Appeal Board