



**DEPARTMENT OF DEFENSE**  
**DEFENSE LEGAL SERVICES AGENCY**  
**DEFENSE OFFICE OF HEARINGS AND APPEALS**  
**APPEAL BOARD**  
**POST OFFICE BOX 3656**  
**ARLINGTON, VIRGINIA 22203**  
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Date: December 22, 2022

In the matter of:	)	
	)	
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	)	
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 May 15, 2020, 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 DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On October 20, 2022, after the record closed, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello 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 had seven delinquent debts totaling about \$31,700 and that he falsified three questions on a 2019 security clearance application (SCA). The Judge found against Applicant on three debt allegations totaling about \$19,000 and the three falsification allegations.

**Falsification Allegations**

The three falsification allegations pertain to Applicant’s failure to disclose on his 2019 SCA the following: (1) his 2016 arrest and charges for DWI and Unlawful Carrying Weapon, (2)

his 2017 arrest and charges for Assault Causing Bodily Injury Family Member and Interfering with Emergency Request for Assistance, and (3) his seven alleged delinquent debts. On appeal, as best we can discern, Applicant contends generally he supplied all requested SCA information truthfully. Regarding the Judge's adverse determination on the delinquent-debt falsification allegation, Applicant asserts no specific assignment of error.

Regarding the criminal-conduct falsification allegations, Applicant states:

I did not deliberately omit DWI, arrest for an alcohol-related offense, or unlawful carrying of a concealed weapon as these charges were expunged. My legal counsel said, when the expungement was approved, all records (local and federal) of the charges would be destroyed and obliterated. In short, these charges would not "exist". Therefore, I denied the charges. I was misinformed by my legal (sic) and the court expungement documents. [Appeal Brief at 1.]

This assignment of error lacks merit. First, Section 22 – Police Record of the SCA begins with the following sentence: "For this section report information regardless of whether the record in your case has been sealed, expunged, or otherwise stricken from the court record or the charge was dismissed." Second and more on point, the Judge found that "Applicant provided an expunction [expungement] order dated November 22, 2021, for the state where he was arrested for the May 2016 and December 2017 arrests. (Tr. 27; AE A)" Decision at 4. Because the expungement order was issued two years after Applicant submitted his 2019 SCA, it cannot logically serve as a basis (*i.e.*, a mistaken belief) for why he did not disclose the alleged arrests and charges in that document.

In the decision, the Judge concluded Applicant "provided contradictory statements on why he did not disclose his arrests" (Decision at 7), and "I did not find Applicant's explanations for why he failed to disclose required information credible." *Id.* at 5. The Appeal Board is required to give deference to a Judge's credibility determinations. Directive ¶ E3.1.32.1. Applicant provided no reason for why the Board should not provide such deference in this case and failed to establish the Judge erred in her findings or conclusions pertaining to the falsification allegations.

### Debt Allegations

Applicant argues that he has made positive efforts to resolve his financial problems and that those problems do not affect his ability to protect classified information. None of his arguments are enough to rebut the presumption that the Judge considered all of the record evidence or to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 21-01169 at 5 (App. Bd. May 13, 2022).

## Conclusion

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 Modzelewski  
Moira Modzelewski  
Administrative Judge  
Member, Appeal Board