



**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: March 27, 2023

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In the matter of:	)	
	)	
	)	
-----	)	ISCR Case No. 21-00116
	)	
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 15, 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 DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On February 2, 2023, after the record closed, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Braden M. Murphy denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The Judge found against Applicant on three SOR allegations. These alleged that Applicant falsified timesheets on at least four occasions in 2019 and resigned from that job upon being advised he was under investigation for that matter, that he falsified a 2019 security clearance application (SCA) by failing to disclose information about his job resignation a month earlier, and that he falsified a 2020 SCA by failing to disclose information about his job termination earlier that year for falsification of time records. The Judge concluded that Applicant failed to show that

his alleged conduct happened under unique circumstances, was unlikely to recur, and did not cast doubt on his reliability, trustworthiness, and good judgement.

Applicant's appeal brief does not specifically assert that the Judge committed any harmful error. It does contain assertions that constitute new evidence, which the Appeal Board is prohibited from considering. Directive ¶ E3.1.29. In the brief, Applicant admits that he made mistakes nearly four years ago and states that he has been on a straight path since then. He also highlights character letters that he submitted to the Judge. To the extent that he is contending the Judge misweighed the evidence, he has failed to establish that the Judge weighed the evidence in manner that was arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3.

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 the 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: Gregg A. Cervi  
Gregg A. Cervi  
Administrative Judge  
Member, Appeal Board