

#### 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: August 23, 2023

In the matter of:	)
	)
	)
Applicant for Security Clearance	)

ISCR Case No. 22-00418

## 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 25, 2022, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline E (Personal Conduct) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective Jun. 8, 2017) and DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On June 6, 2023, after the hearing, Defense Office of Hearings and Appeals Administrative Judge Benjamin R. Dorsey denied Applicant's security clearance eligibility. Applicant appealed pursuant to Directive ¶ E3.1.28 and E3.1.30.

The SOR alleged 12 Guideline E allegations, including six criminal convictions between 1975 and 2014, one resisting arrest charge in 1985 with no disposition noted, an employment termination for workplace policy violations in 2020 followed by an intentional failure to surrender his site badge in an effort to later subvert airport security, and three security clearance application falsifications in 2020. The Judge found against Applicant on each SOR allegation.

Applicant's appeal brief does not assert that the Judge committed any harmful error. Rather, it basically requests that he be given another chance.

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 alleged such a harmful error, the decision of the Judge denying Applicant security clearance eligibility is sustainable.

### Order

The decision is **AFFIRMED**.

<u>Signed: James F. Duffy</u> James F. Duffy Administrative Judge Chairperson, Appeal Board

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

<u>Signed: Allison Marie</u> Allison Marie Administrative Judge Member, Appeal Board