



**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: January 18, 2024

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

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Julie R. Mendez, Esq., Deputy Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 23, 2023, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline H (Drug Involvement and Substance Misuse), Guideline F (Financial Considerations), and Guideline E (Personal Conduct) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On November 1, 2023, Defense Office of Hearings and Appeals Administrative Judge Charles C. Hale denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline H, the SOR alleges that Applicant twice tested positive for marijuana on an employer’s urinalysis test—in about March 2021 and September 2021—and that she used marijuana with varying frequency from at least August 2014 to at least September 2021. Under Guideline E, the SOR alleges that Applicant falsified material facts in her response to Government interrogatories in asserting that the two positive urinalyses were the result of secondhand

inhalation; that she falsified material facts on her July 2021 security clearance application (SCA) in failing to disclose the marijuana use described under Guideline H and in listing her dates of employment at Company A as continuous from March 2011, when in fact she had been terminated in September 2020 and later reinstated in March 2021; that she tested positive for marijuana in March 2021 and did not disclose the same on her SCA; and that she was terminated from employment in October 2021 after testing positive for marijuana during a post-accident urinalysis. Under Guideline F, the SOR alleged that Applicant was indebted to the Federal government for delinquent taxes in the amount of approximately \$6,200 for tax year 2017. The Judge found favorably for Applicant on the Guideline F allegation and on the Guideline E allegation regarding her March 2021 positive urinalysis and the failure to disclose the same. He found adversely to her on the Guideline H and remaining Guideline E allegations.

On appeal, Applicant first highlights her efforts to resolve her tax debt and states that it is “difficult to comprehend how the judge arrived at an unfavorable decision” regarding that allegation. Appeal Brief (AB) at 1. The Judge, however, found favorably for Applicant on the tax debt allegation. The remainder of Applicant’s appeal concerns her ingestion of marijuana in September 2021 that resulted in a positive urinalysis. She provides “further context and clarification” of that incident and seeks reconsideration of the adverse security clearance decision. AB at 2, 3. The Appeal Board, however, is prohibited from considering new evidence on appeal and does not review cases *de novo*. Directive ¶ E3.1.29.

Applicant has not established that the Judge committed harmful error. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

**Order**

The decision is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski  
Administrative Judge  
Chair, Appeal Board

Signed: Gregg A. Cervi

Gregg A. Cervi  
Administrative Judge  
Member, Appeal Board

Signed: Allison Marie

Allison Marie  
Administrative Judge  
Member, Appeal Board