



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: October 24, 2024

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

)

ISCR Case No. 23-01790

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 12, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline H (Drug Involvement and Substance Misuse) 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 DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On October 3, 2024, Defense Office of Hearings and Appeals Administrative Judge Edward W. Loughran denied Applicant security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant, now in his mid-20s, completed a Questionnaire for Non-Sensitive Positions (SF85) in April 2021 wherein he disclosed no reportable drug use or misuse in the prior year. Government Exhibit (GE) 2 at 14. Subsequently, in his November 2022 security clearance application, Applicant disclosed his misuse of various illegal and prescription drugs, including marijuana beginning in 2016, and LSD, hallucinogenic mushrooms, cocaine, and unprescribed Adderall beginning in 2018, all of which continued until mid-2022. GE 1 at 38-40. Under Guideline H, the SOR alleged the foregoing drug use, and further alleged under Guideline E that

Applicant deliberately failed to disclose the use on his SF85. Applicant responded to the SOR by admitting all of the allegations with explanation. In finding adversely on all allegations, the Judge concluded that Applicant exhibited “at least one too many instances of poor judgment” when he “used illegal drugs, lied about using illegal drugs on his [SF85], and then went back to using illegal drugs.” Decision at 7.

On appeal, Applicant contends that the Judge failed to consider the nine adjudicative factors set forth in the Directive and argues how he believes those factors should be weighed differently. Appeal Brief at 1 (citing AG ¶ 2(d)). An applicant’s ability to argue for a different interpretation of the evidence “is not sufficient to demonstrate that the judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law.” ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). Applicant also asserts that the loss of his security clearance may jeopardize his current and future employment. The adverse impact of an unfavorable clearance decision on an applicant’s employment or career is not relevant in evaluating his security suitability. *See* DISCR OSD Case No. 91-0322, 1993 WL 99569 at *3 (App. Bd. Mar. 9, 1993).

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 in ISCR Case No. 23-01790 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