



with any objections or additional information for the Judge to consider. Applicant did not respond to the FORM and the Judge found against him on all allegations.

There is no presumption of error below and the appealing party has the burden of demonstrating that the judge committed factual or legal error. *See* ISCR Case No. 00-0050, 2001 WL 1044490 at \*1 (App. Bd. Jul. 23, 2001). On appeal, Applicant provides new evidence in the form of additional explanation regarding the SOR allegations. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant also expresses regret in having chosen to have his case decided based on the written record instead of at a hearing. Applicant waived his right to a hearing when he responded to the SOR. Although he had the opportunity to offer additional evidence for the Judge to consider in a response to the FORM, he declined any response. Applicant cannot fairly challenge the Judge's decision based on a proffer of new evidence on appeal, and he has failed to demonstrate any 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 in ISCR Case No. 23-02934 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