

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

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Julie R. Mendez, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 12, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision — security concerns raised under Guideline E (Personal Conduct) and Guideline J (Criminal Conduct) of the National Security Adjudicative Guidelines 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 2, 2024, Defense Office of Hearings and Appeals Administrative Judge Charles C. Hale denied Applicant security clearance eligibility. Applicant appealed pursuant to Directive ¶ E3.1.28 and E3.1.30.

The Judge found favorably for Applicant on the criminal conduct allegations, which cited arrests in the 1990s, but adversely on the Guideline E allegations, which cited Applicant's failure to disclose the arrests on her 2019 and 2022 security clearance applications. On appeal, Applicant makes no allegation that the Judge erred but instead presents additional information about why she failed to disclose. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29. The Board's authority to review a case is limited to cases in which the appealing party has alleged the judge committed harmful error.

Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a security clearance is sustainable.

Order

The decision in ISCR Case No. 23-02853 is **AFFIRMED**.

Signed: Moira Modzelewski Moira Modzelewski Administrative Judge Chair, Appeal Board

Signed: Allison Marie Allison Marie Administrative Judge Member, Appeal Board

Signed: James B. Norman James B. Norman Administrative Judge Member, Appeal Board