



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: November 25, 2024

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

ISCR Case No. 23-01788

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 December 19, 2023, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline B (Foreign Influence) and Guideline H (Drug Involvement and Substance Misuse) 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 September 25, 2024, Defense Office of Hearings and Appeals Administrative Judge Robert Robinson Gales 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 Guideline B allegation. On appeal, Applicant makes no specific assertion of error on the part of the Judge regarding the Guideline H allegations. Instead, he implies a disagreement with Judge’s conclusions. The Appeal Board does not review cases *de novo*. 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.

Applicant is advocating for an alternative weighing of the evidence. However, an applicant's disagreement with the judge's weighing of the evidence or an 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. *E.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007).

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

Order

The decision in ISCR Case No. 23-01788 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