



**DEPARTMENT OF DEFENSE
 DEFENSE LEGAL SERVICES AGENCY
 DEFENSE OFFICE OF HEARINGS AND APPEALS
 APPEAL BOARD
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 ARLINGTON, VIRGINIA 22203
 (703) 696-4759**

Date: July 14, 2025

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 In the matter of:)
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 Applicant for Security Clearance)
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ISCR Case No. 24-00375

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 May 2, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline M (Use of Information Technology), Guideline B (Foreign Influence), Guideline D (Sexual Behavior), 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 May 16, 2025, Defense Office of Hearings and Appeals Administrative Judge Bryan J. Olmos denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Findings of Fact

Applicant is in his mid-50s. He is married and has one child and a stepchild, both adults. He earned a bachelor’s degree in 2011 and a master’s degree in 2013. In 2019, he earned a second master’s degree with a focus in cybersecurity and information assurance. In 1988, Applicant enlisted on active duty with the U.S. military. At an unspecified date, he commissioned as an

officer and retired in 2022. He has held a security clearance since early in his military career. Prior to the events described below, he had not had any security incidents.

Following his retirement, Applicant began working as a contractor at a facility where he had previously worked while in the military. He worked in a Sensitive Compartmented Information Facility where he accessed both the Non-classified Internet Protocol Router Network (NIPRNet) and the Secret Internet Protocol Router Network (SIPRNet). He described feeling isolated as he had no desk phone and was not allowed to bring a cellphone into the workspace. He began to access Facebook and his personal email through the NIPRNet. He testified that accessing Facebook and his email through NIPRNet was permitted.

Shortly after starting his new position in December 2022, Applicant began planning an event where he and several of his male friends would rent a villa in the Dominican Republic and fly there in February 2023 to watch the Super Bowl. His physical therapist was from the Dominican Republic and put him in contact with her niece, Ms. J, who lived there. He reached out through Facebook and began corresponding with Ms. J. He stated that his initial goal was to have women in the Dominican Republic that his group could take to restaurants and clubs and “hang out” with. He described that his marriage was poor at the time, and he was thinking about engaging in sexual relations with these women while on the trip.

From December 2022 until his trip in February 2023, Applicant’s communications with Ms. J expanded, and he asked if she had any pictures of herself that were not on Facebook. She sent him nude photos and other sexually explicit photos and videos. He reciprocated by sending similar photos of himself but claimed that he could not be identified by the picture because he did not include his face. He planned to have sexual relations with Ms. J on his visit. During their communications, she asked him for money. He sent her about \$50 but claimed this was not a “quid pro quo” and did not recall whether he had sent her money before or after she sent him pictures.

Applicant also contacted several of Ms. J’s friends through Facebook. He estimated that, in total, he communicated with about five additional women from the Dominican Republic and received sexually explicit photos from several of them. He also sent one of the women \$40 and further claimed that this was not in exchange for any pictures she sent him.

Several of the communications and photo exchanges with Ms. J and the other women from the Dominican Republic occurred while Applicant was at work and through his NIPRNet computer. He described that he would view the sexually explicit material through Facebook and then move the files to and from his personal email. He also completed the money transfers through his NIPRNet computer.

As planned, Applicant traveled to the Dominican Republic in February 2023. Ms. J spent about two days with him, and they engaged in sexual relations. He testified that he took her out to dinner and activities but denied he gave her money for sex. While on the trip, he did not meet any of the other women he had been communicating with. After an unspecified number of days, he returned from his trip.

On March 3, 2023, a government cybersecurity division issued a report stating that the User Activity Monitoring System detected Applicant had conducted activities at his workstation that were in violation of user agreements. Following a review of his computer usage, the cybersecurity division stated Applicant had been in contact with about 25 foreign nationals from different parts of the world and that he was “soliciting them for videos, pictures, and meetings of sexual nature in exchange for monetary compensation.” Decision at 3 (quoting Government Exhibit 2). It was further noted that he had downloaded and saved pictures “of a sexual nature” and had downloaded and sent sexually explicit pictures of himself to and from his workstation. *Id.* The report also confirmed, in review of his Facebook correspondence, that he had met with at least one foreign national that he had identified for sexual engagement. The report concluded that, from his workstation, Applicant had solicited sexual favors, transmitted and received pornographic images and videos, transferred money to multiple women to facilitate sexual favors, had a confirmed sexual liaison, and exhibited foreign influence vulnerability. Shortly after the report was issued, his employment was terminated.

Discussion

There is no presumption of error below and the appealing party has the burden of raising claims of error with specificity. Directive ¶ E3.1.30. On appeal, Applicant provides a new letter of recommendation and offers further explanations in support of mitigation, including that his wife is now aware of his extramarital sexual relationship. To the extent that the documents submitted constitute new evidence, the Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant has failed to establish any harmful error below. The record supports a conclusion that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision 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. 24-00375 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer I. Goldstein

Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board