



DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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Date: July 8, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-01297

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Grant Couch, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On August 8, 2024, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision – security concerns raised under Guideline E (Personal Conduct), Guideline J (Criminal Conduct), and Guideline D (Sexual Behavior) 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 2, 2025, Defense Office of Hearings and Appeals Administrative Judge John B. Glendon denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline E, the SOR alleges that Applicant's employment was terminated in May 2021 for violations of company policy, misuse of company property, and unprofessional conduct (SOR ¶ 1.d). Additionally, the SOR alleges that Applicant falsified his April 2023 security clearance application (SCA) for not reporting: his 2021 termination (SOR ¶ 1.a); his March 2023 charge of Battery (SOR ¶ 1.b); and his 2021 civil court action (SOR ¶ 1.c). The March 2023 Battery charge was alleged independently under Guideline J (SOR ¶ 2.a), and the civil court action was alleged under sexual behavior (SOR ¶ 3.a). The Judge found against Applicant on all of the

allegations. Our review of the Judge's decision confirms that he considered all relevant issues and properly applied the mitigating conditions in concluding that Applicant's personal conduct, criminal conduct, and sexual behavior concerns were unmitigated. Consistent with the following, we affirm.

Discussion

On appeal, Applicant argues that the Judge failed to consider all relevant evidence submitted by Applicant, that he failed to give proper weight to record evidence, and that he failed to consider applicable mitigating factors. Appeal Brief at 5-8. Specifically, Applicant asserted the Judge failed to consider "positive steps" such as Applicant's "exemplary employment record, glowing letters of recommendation," and the passage of time since his last incident. *Id.*

A judge's decision can be arbitrary or capricious if: it does not examine relevant evidence; it fails to articulate a satisfactory explanation for its conclusions, including a rational connection between the facts found and the choice made; it does not consider relevant factors; it reflects a clear error of judgment; it fails to consider an important aspect of the case; it offers an explanation for the decision that runs contrary to the record evidence; or it is so implausible that it cannot be ascribed to a mere difference of opinion. *See* ISCR Case No. 95-0600, 1996 WL 480993 at *3 (App. Bd. May 16, 1996) (citing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983)). However, "[a]n analysis that merely is considered inadequate in the eyes of a party does not equate to an analysis that is arbitrary and capricious." ISCR Case No. 23-01559 at 2 (App. Bd. Sep. 16, 2024). "Unless a Judge's weighing of the record evidence is patently absurd, clearly illogical, or obviously unreasonable, the appealing party must present a cogent reason or argument as to how or why the Judge's weighing of the record evidence is arbitrary, capricious, or contrary to law." ISCR Case No. 03-05072 at 4 (App. Bd. Jul. 14, 2005). Here, Applicant's brief advocates for an alternative weighing of the evidence under the applicable mitigating conditions and the Whole-Person Concept but fails to demonstrate error. 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." ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). Moreover, Applicant's arguments fail to rebut the presumption that the Judge considered all of the record evidence.

We have considered the entirety of the arguments contained in his appeal brief. The record supports a conclusion that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, including a 'rational connection between the facts found and the choice made. His conclusions and adverse decision are 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. 24-01297 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer Goldstein

Jennifer Goldstein
Administrative Judge
Member, Appeal Board