



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: September 4, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-01939

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 2, 2025, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision — security concerns raised under Guideline H (Drug Involvement and Substance Misuse) 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 July 14, 2025, Defense Office of Hearings and Appeals Administrative Judge Mark Harvey denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The Judge found against Applicant on four allegations, including that Applicant used marijuana with varying frequency from about May 2016 to about October 2024 (SOR ¶ 1.a); that he used hallucinogenic mushrooms from about June 2019 to about December 2022 (SOR ¶ 1.b); that he misused prescription Adderall from about September 2019 to about May 2023 (SOR ¶ 1.c); and that he used cocaine from about March 2021 to about June 2021 (SOR ¶ 1.d). The Judge found for Applicant on SOR ¶¶ 1.e through 1.g, which alleged that Applicant misused prescription Xanax in 2021 (SOR ¶ 1.e); that he was arrested and charged with Possession of Marijuana in May 2017 (SOR ¶ 1.f); and that he was arrested and charged with Possession of Paraphernalia in May 2018 (SOR ¶ 1.g).

In his appeal brief, Applicant contends that the Judge's adverse determination was arbitrary, capricious, and contrary to law and unsupported by the record evidence. For reasons stated below, we affirm the Judge's decision.

Background

Applicant is in his mid-20s and works as a manufacturing engineer for a government contractor since February 2024. He is unmarried and has no children. He attended high school from August 2015 to May 2019. In 2023, he earned a bachelor's degree in mechanical engineering.

Applicant completed a security clearance application (SCA) in February 2024. On the section of the SCA that asked about his police record, he disclosed his 2017 charge for possession of marijuana and his 2018 charge of possession of paraphernalia. Under the questions about illegal drug use or drug activity, Applicant disclosed he purchased and used marijuana "only a few times" between May 2018 and October 2022. Government Exhibit (GE) 1. He noted on his SCA that, "There is no reason for me to use it. It did not give any benefits to me. I just ended up trying it when I was in college. I do not plan to use it ever again." *Id.*

However, when he participated in his April 22, 2024 subject interview and answered interrogatories in December 2024, he disclosed additional drug use. He listed that he used marijuana occasionally between May 2016 and October 2024, including twice since completing his SCA. He also disclosed that he used "mushrooms" two times between June 2019 and December 2022. He tried cocaine "a few times" between March 2021 and June 2021. Additionally, he misused two prescription drugs: Xanax from November to December 2021 and Adderall from September 2019 to May 2023. GE 2.

Applicant asserted that his drug use was experimental. He attributed his use of marijuana in September and October of 2024, while working for his current employer and having an interim clearance, to anxiety related to the deaths of two friends. He acknowledged he made a mistake in using it. On May 8, 2025, he provided a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse would be grounds for revocation of national security eligibility. He has never been treated or counseled for abuse of drugs.

Discussion

Applicant first contests the Judge's factual findings that Applicant admitted he was arrested and charged with Possession of Marijuana in May 2017 (SOR ¶ 1.f) and that he was arrested and charged with paraphernalia in May 2018 (SOR ¶ 1.g). Applicant has never been arrested. In both instances, Applicant was only issued a "ticket" with the charges cited. In his Answer to the SOR, he denies that he was arrested for either charge and there is no evidence in the record to support that Applicant was arrested. While the Judge erred in stating that Applicant was arrested for both charges, the Judge found both allegations in Applicant's favor. As a result, these errors are harmless because they did not affect the adverse outcome of the case. *See* ISCR Case No. 11-15184 at 3 (App. Bd. Jul. 25, 2013) (discussing harmless error doctrine).

Applicant also contends that the Judge erred in his application of the mitigating conditions and in his application of the Whole-Person Concept. He asserts that the Judge's analysis was too subjective with respect to the amount of time that would establish a pattern of abstinence; and that he has matured and is now a more responsible person. Applicant's arguments essentially amount to a disagreement with the Judge's weighing of the evidence and are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor enough to establish that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. See ISCR Case No. 04-08975 at 1 (App. Bd. Aug. 4, 2006) (citation omitted). In this case, the Judge discussed all relevant factors.

The Judge found that Applicant's "decisions to possess and use marijuana while occupying a sensitive position and after completion of his SCA are indications he lacks the qualities expected of those with access to national secrets. The time between Applicant's involvement with marijuana and his hearing was about seven months and this period is insufficient under all of the circumstances." Decision at 10. The Appeal Board has "never established a 'bright line' rule as to recency of drug use. The extent to which security concerns may have become attenuated through the passage of time is a question that must be resolved based on the evidence as a whole." See ISCR Case No. 14-01847 at 3 (App. Bd. Apr. 9, 2015). Weighing the recency of Applicant's marijuana use and his use after submitting his SCA amidst all of the other factors, the Judge concluded that Applicant's "relatively recent involvement with marijuana, cocaine, Adderall, and psilocybin continues to cast doubt on his current reliability, trustworthiness, and judgment." Decision at 10. In this instance, the Judge articulated a reasonable analysis for his findings under Guideline H and the Whole-Person Concept.

Conclusion

Based on our review of the record, the Judge's conclusions are sustainable and sufficient to support denial of Applicant's national security eligibility. Applicant failed to establish the Judge committed any harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on the 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. 24-01939 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