



**DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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Date: September 30, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-00362

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 October 11, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline J (Criminal Conduct), 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 September 11, 2025, Defense Office of Hearings and Appeals Administrative Judge Gatha LaFaye denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Discussion

Applicant, in his mid-30s, has been employed as a federal contractor since 2018 and has worked with his current employer and security clearance sponsor since late 2020. Under Guideline J, the SOR alleged that Applicant was involved in seven domestic violence-related incidents between 2010 and September 2021, including harassment and sending harassing communications. The SOR further alleged under Guideline D that Applicant's January 2016 arrest involved his

electronically sending an explicit picture of himself to another person and that, in November 2020, he was the subject of a complaint to police that he electronically communicated with and sent explicit pictures to his sister-in-law on her “Only Fans” account without first identifying himself. Finally, all of the foregoing conduct was cross-alleged under Guideline E. In response to the SOR, Applicant denied the allegation regarding his sister-in-law, admitted all other allegations with explanation, and requested that his case be decided based on the written record. On February 21, 2025, he received a complete copy of the Government’s File of Relevant Material and was notified of his ability to respond with objections or additional information for the Judge to consider. Applicant responded on April 6, 2025, and submitted a letter from a licensed professional counselor who stated that she had worked with Applicant therapeutically off and on since 2012.

The Judge favorably resolved the concerns under Guidelines D and E, as well as the 2010 arrest alleged under Guideline J. She held adversely on the remaining six Guideline J concerns, however, finding that “Applicant’s impulsive and irresponsible behavior[,] evidenced by his multiple domestic violence and harassment incidents against his last three domestic partners between 2013 and his last court administrative action in 2024, shows the continuation of a pattern of abusive behavior that has not been adequately addressed or resolved.” Decision at 8.

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. Citing the Judge’s analysis under the Whole-Person Concept that Applicant’s election to have his case decided on the written record left no opportunity to question him about inconsistencies in his various statements about the arrests, observe his demeanor, or otherwise assess his credibility, Applicant on appeal expresses regret for his election and requests that his case be remanded for a hearing to address the Judge’s concerns.

Absent a showing of harmful error that affects a party’s right to present evidence in the proceedings below, a party is not entitled to a second chance to present their case. *See* ISCR Case No. 00-0086 at 2 (App. Bd. Dec. 13, 2000). Here, Applicant asserts that he declined an in-person hearing because he previously believed that would require him to retain an attorney, which he could not afford. When he received his SOR, however, the transmittal letter described the hearing process and advised him: “You may be represented by counsel or a personal representative, *or you may choose to represent yourself.*” 10/11/2024 Transmittal Letter at 2 (emphasis added).

Applicant has failed to identify or demonstrate any error by the Judge, let alone any error that affected his right to have legal representation or to present evidence on his behalf during the proceedings below. Accordingly, there is no factual or legal basis for the Board to grant Applicant the relief he seeks.

Conclusion

Applicant has not established that the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Our review of the record confirms that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which 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 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. 24-00362 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Jennifer I. Goldstein

Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board