



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD**



Date: May 20, 2026

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

ISCR Case No. 25-00452

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 April 25, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline J (Criminal Conduct), Guideline H (Drug Involvement and Substance Misuse), 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 March 25, 2026, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline J, the SOR alleged seven arrests and charges spanning from April 2003 to December 2023. Under Guideline H, the SOR alleged use of marijuana from 2008 through 2021, use in 2019 while in a sensitive position, and a 2007 arrest for possession. The criminal conduct and drug use concerns were cross-alleged under Guideline E. The Judge found favorably for Applicant on five of the seven Guideline J allegations and on one of the three Guideline H allegations. He found adversely to Applicant on the remaining allegations. Those allegations included a domestic violence incident in November 2023, a violation of the subsequent protective order in December 2023, and marijuana use over

several years, including while in a sensitive position. Additionally, the Judge found adversely on the cross-alleged Guideline E security concerns.

The Judge highlighted that an assessment of Applicant’s credibility was critical to his resolution of the case, as Applicant provided accounts of the November 2023 domestic violence incident and protective order violation that conflicted with witnesses’ accounts and police reports. Regarding Applicant’s credibility in general, the Judge concluded that “Applicant’s inconsistent statements, lack of candor, and parsing of words or statements contributed to my assessment that Applicant’s testimony was not credible.” Decision at 11. Turning to Applicant’s credibility regarding the 2023 criminal allegations, the Judge described all the conflicting evidence in detail before concluding that Applicant’s accounts of the November 2023 domestic violence incident and the December 2023 violation of the protective order were not credible. *Id.* at 11–12. In summary, the Judge found:

[Applicant] has not accepted responsibility for his questionable judgment and conduct related to his illegal drug use while possessing a clearance and as related to the November 2023 incident. He portrays himself as the victim of others’ misdeeds, mischaracterizations, and misunderstandings, without acknowledging his own lapses in judgment and misconduct. Applicant did not mitigate the security concerns arising from his criminal behavior in the 2023 incidents and his drug involvement.

Id. at 16.

On appeal, Applicant raises one issue — that the Judge was biased. He highlights that his own statements were consistent with his statements in police reports and court proceedings and that he “was never found to be guilty of lying.” Appeal Brief at 1. Applicant asserts that the Judge “made a statement that ‘either I was the most unlucky person on earth, or the biggest liar,’” which made Applicant feel that “no matter what character reference or evidence I had to support me mattered and he had preconceptions that resulted in a skewed judgement.” *Id.*

An appealing party has a heavy burden of demonstrating conduct by a judge that deprived the hearing or decision of fairness and impartiality. *See, e.g.*, ISCR Case No. 94-0282, 1995 WL 272062 at *3 (App. Bd. Feb. 21, 1995) (citations omitted). Here, Applicant fails to carry his burden for the reasons detailed below.

First, and most importantly, the Judge did not make the statement that Applicant alleges, or anything close to it. Our review of the transcript confirms that, instead, Department Counsel said something similar in his closing argument: “Trying to get a straight answer from the applicant today was very difficult. And the thing here is going to be his credibility. . . . [H]e’s just the unluckiest guy in the world. He keeps getting arrested for the wrong place, wrong time.” Transcript at 123. To state the obvious, argument by

counsel is entirely different from a statement by a judge.¹ This allegation of an inappropriate comment is without merit.

Turning to Applicant's broader assertion of bias, we are not persuaded. The Judge's decision explicitly considers all character evidence that Applicant submitted attesting to his devotion as a father and to "his exemplary work performance and mentorship." Decision at 17. Moreover, the Judge's decision cites repeatedly to Applicant's explanation of the alleged events, and he conducted an exhaustive review of the conflicting evidence before drawing his adverse determination on Applicant's credibility. Finally, we note that the Judge found favorably for Applicant on five allegations under Guideline J and on one allegation under Guideline H. In sum, we find nothing in the record to support Applicant's contention that the Judge was biased or that would persuade a reasonable person that the Judge lacked impartiality.

Conclusion

Applicant has not established bias or that the Judge's conclusions were arbitrary, capricious, or contrary to law. Rather, the Judge examined and weighed the disqualifying and mitigating evidence and articulated a satisfactory explanation for the decision. The record is sufficient to support that the Judge's findings and conclusions are sustainable. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dep't 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)

¹ Although the Board has no supervisory authority over Department Counsel, the Board can review claims that the conduct of Department Counsel violated or prejudiced an applicant's rights under Executive Order 10865 or the Directive. ISCR Case No. 02-04344 at 2 (App. Bd. Sep. 15, 2003). Our review of the transcript convinces us that Applicant has established no prima facie case of any such violation.

Order

The decision in ISCR Case No. 25-00452 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