

KEYWORD: Guideline G; Guideline J

DIGEST: The Board has no authority to grant an interim, conditional or probationary clearance. Adverse decision affirmed.

CASENO: 10-03646.a1

DATE: 12/28/2011

DATE: December 28, 2011

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In Re:	)	
	)	
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	)	
Applicant for Security Clearance	)	

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**APPEAL BOARD SUMMARY DISPOSITION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 8, 2011, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline G (Alcohol Consumption), Guideline J (Criminal Conduct) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On October 13, 2011, after the hearing, Administrative Judge Carol G. Ricciardello denied Applicant’s request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

In his appeal brief, Applicant states: “After further review of this case and the Judge’s decision I have conceded that the evidence against me is insurmountable.” He then summarizes the favorable evidence and asks that the Board to grant him an interim clearance.

The Board has no authority to grant an interim, conditional or probationary clearance. *See, e.g.*, ISCR Case No. 02-18434 at 5 (App. Bd. Aug. 13, 2004). Its authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Applicant has not made an allegation of harmful error on the part of the Judge. To the extent that Applicant’s brief could be construed as arguing that the record evidence would support a favorable application of the mitigating conditions, such an argument is insufficient to demonstrate that the Judge erred. The presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. *See, e.g.*, ISCR Case No. 09-07139 at 3 (App. Bd. Sep. 13, 2011). Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra’anan  
Michael Y. Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board