

KEYWORD: Guideline F

DIGEST: The Board does not review a case *de novo*. The Appeal Board's 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. Adverse decision AFFIRMED

CASENO: 12-10934.a1

DATE: 03/21/2016

DATE: March 21, 2016

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| In Re:) | |
|) | |
| -----) | ISCR Case No. 12-10934 |
|) | |
|) | |
| Applicant for Security Clearance) | |
| _____) | |

APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 21, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On January 28, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Philip S. Howe denied Applicant’s request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant’s appeal brief contains no assertion of harmful error on the part of the Judge. Rather, Applicant states that she made a mistake by not electing to have a hearing, and asks the Board to remand her case for a hearing so that she can offer evidence about herself, particularly her military service and awards. As part of her submission on appeal, she includes copies of her DD214, Legion of Merit narrative, and several character reference letters.

The Board cannot consider Applicant’s new evidence on appeal. *See* Directive ¶ E3.1.29. Additionally, the Board has no authority to remand a case for a hearing simply for the purpose of taking in new evidence. *See, e.g.*, ISCR Case No. 02-20403 at 4 (App. Bd. Apr. 7, 2003) *citing* ISCR Case No. 00-0429 at 3 (App. Bd. Jul. 9, 2001) (“Absent a showing of factual or legal error that affects a party’s right to present evidence in the proceedings below, a party does not have the right to have a second chance at presenting its case before an Administrative Judge.”)

The Board does not review a case *de novo*. The Appeal Board’s 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. Therefore, the decision of the Judge is AFFIRMED.

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

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: William S. Fields _____

William S. Fields

Administrative Judge

Member, Appeal Board