

DATE: February 16, 2001

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 00-0245

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Chief Department Counsel

FOR APPLICANT

Pro Se

Administrative Judge Jerome H. Silber issued a decision dated September 28, 2000, in which he concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant appealed. For the reasons set forth below the Board affirms the Administrative Judge's decision.

The Board has jurisdiction on appeal under Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 as amended.

Applicant's appeal presents the following issues: Whether the Administrative Judge's decision was arbitrary, capricious or contrary to law?

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) to Applicant dated May 31, 2000. The SOR was based on Guideline F (Financial Considerations), Guideline E (Personal Conduct), and Guideline J (Criminal Conduct). Applicant requested a hearing which was held on August 22, 2000. The Administrative Judge issued a decision on September 28, 2000 in which he concluded that it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant appealed that unfavorable decision. [\(1\)](#)

Appeal Issue

Whether the Administrative Judge's decision was arbitrary, capricious or contrary to law? On appeal, Applicant discusses various prior inconsistent statements as to his drug history and the role of others in preparing the written form of those statements. The Board construes Applicant's appeal brief as arguing that the Administrative Judge's decision was arbitrary, capricious or contrary to law. The Board does not agree.

Applicant fails to demonstrate that the Administrative Judge's pertinent factual findings are unsustainable under Item E3.1.32.1 of the Directive's Additional Procedural Guidance in light of the record evidence. Nor do Applicant's arguments demonstrate that the Administrative Judge's conclusions regarding Applicant's falsification conduct are arbitrary, capricious or contrary to law. Directive, Additional Procedural Guidance, Item E3.1.32.3.

The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Security requirements include consideration of a person's judgment, reliability, and trustworthiness. *Cafeteria & Restaurant Workers Union, Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961). Falsification of a security questionnaire provides a rational basis for an adverse security clearance decision. *See Harrison v. McNamara*, 228 F.Supp. 406, 408 (D. Conn. 1964)(lying on application for government position requiring a security clearance raises questions as to person's reliability and justifies dismissal), *aff'd per curiam*, 380 U.S. 261 (1965).

The Administrative Judge's findings and conclusions about Applicant's falsification of a security questionnaire provide a rational basis for the Judge's adverse security clearance decision.

Conclusion

Applicant has failed to meet his burden on appeal of demonstrating error by the Administrative Judge below. Therefore the Administrative Judge's decision is affirmed.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

1. The Administrative Judge found for Applicant on Paragraph 1 of the SOR (Guideline F) and three subparagraphs of Paragraph 2 (Guideline E). None of those findings are raised on appeal and therefore none are addressed by the Board.