

DATE: March 8, 2001

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 00-0311

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

Administrative Judge Robert R. Gales issued a decision, dated December 8, 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.

This 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 issue of whether the Administrative Judge's security clearance decision is arbitrary, capricious, or contrary to law.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) dated July 24, 2000 to Applicant. The SOR was based on Guideline H (Drug Involvement).

Applicant submitted an answer to the SOR. A File of Relevant Material (FORM) was prepared and a copy was given to Applicant. Applicant submitted a response to the FORM. The case was then assigned to an Administrative Judge for disposition.

The Administrative Judge issued a written decision, dated December 8, 2000, in which he concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. The case is before the Board on Applicant's appeal from the Judge's adverse decision.

Appeal Issue

On appeal, Applicant does not challenge the Administrative Judge's findings about her use of marijuana in the 1970s and her renewed use of marijuana in the 1990s (on at least three occasions, with the last use occurring in February 1999). However, Applicant makes several arguments that challenge the Judge's adverse conclusions.

Applicant's appeal arguments highlight some passages of the Administrative Judge's decision that, when viewed in

isolation, are problematic. However, the Board does not review isolated sentences of a Judge's decision; rather, the Board reads a Judge's decision as a whole to discern what the findings the Judge is making and what conclusions the Judge is reaching. *See, e.g.*, ISCR Case No. 99-0519 (February 23, 2001) at p. 8. Furthermore, the Board does not measure a Judge's decision against a standard of perfection. *See, e.g.*, ISCR Case No. 99-0500 (May 19, 2000) at p. 3. The Board need not agree with the particular wording of the Judge's decision to conclude that Applicant has failed to demonstrate the Judge acted in a manner that is arbitrary, capricious, or contrary to law when he drew adverse conclusions about Applicant's history of marijuana use. 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). Furthermore, drug abuse can pose a security risk in a variety of ways. *See, e.g.*, *AFGE Local 1533 v. Cheney*, 944 F.2d 503, 506 n.6 (9th Cir. 1991). Given the record evidence in this case, the Judge had a rational basis for concluding that Applicant's return to marijuana use in the 1990s raised doubts about her suitability for a security clearance. It was proper for the Judge to resolve those doubts in favor of the national security. *See* Directive, Item E2.2.2 ("Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security.").

Applicant's appeal arguments point to matters that could be seen as favorable evidence. However, an Administrative Judge must consider all the record evidence, both favorable and unfavorable, and decide whether the favorable evidence outweighs the unfavorable evidence or *vice versa*. *See, e.g.*, ISCR Case No. 00-0044 (December 22, 2000) at p. 3. Applicant's appeal arguments fail to persuade the Board that the Judge weighed the record evidence in a manner that is arbitrary, capricious, or contrary to law.

Conclusion

Applicant has failed to meet her burden of demonstrating error below. Accordingly, the Board affirms the Administrative Judge's December 8, 2000 decision.

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