

DATE: September 8, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-10088

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Francisco J. Mendez, Jr., Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On June 23, 2005, DOHA issued a statement of reasons advising Applicant of the basis for that decision--security concerns raised under Guideline B (Foreign Influence) and Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested the case be decided on the written record. On February 15, 2006, after considering the record, Administrative Judge Claude R. Heiny denied Applicant's request for a security clearance.⁽¹⁾ Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether Applicant was denied due process of law.

Applicant argues he was denied due process of law because the 30 day time period in which he had to respond to the government's file of relevant material (FORM) was too short to allow him to acquire copies of the financial documents necessary to address the government's concerns, given the fact that he lives and works in the Republic of Korea.⁽²⁾ The Board does not find this argument persuasive.

A review of the record indicates Applicant was provided with the procedural rights set forth in Executive Order 10865 and the Directive. Applicant received the FORM on September 28, 2005. The Administrative Judge issued his decision on February 15, 2006. Applicant did not make a request for additional time during the 30 day period he had to respond to the FORM--even though Applicant was provided with both mailing and telephonic contact information. Nor did Applicant make a request for additional time during the three month period between the submission of the FORM to the Administrative Judge and the issuance of the Judge's decision. In any event, Applicant did not establish that he was prejudiced by the processing of his case. He did not provide evidence that he had paid or otherwise resolved his debts. Although *pro se* applicants cannot be expected to act like lawyers, they are expected to take timely, reasonable steps to protect their rights under the Directive. *See, e.g.*, ISCR Case No. 00-0593 at 4 (App. Bd. May 14, 2001). If they fail to take timely, reasonable steps to protect their rights, that failure to act does not constitute a denial of their rights. *See, e.g.*, ISCR Case No. 02-19896 at 6 (App. Bd. Dec. 29, 2003). Because Applicant did not make a request for additional time to collect evidence and respond to the FORM, he was not denied due process under the Directive or Executive Order.

Order

The decision of the Administrative Judge denying Applicant a clearance is AFFIRMED.

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

Signed: Mark Harvey

Mark W.. Harvey

Administrative Judge

Member, Appeal Board

1. The Administrative Judge found in favor of Applicant under Guideline B. That favorable finding is not at issue on appeal.

2. Along with his appeal brief, Applicant submitted new evidence in the form of a character reference letter. The Board cannot consider this new evidence on appeal. *See* Directive ¶ E3.1.29.