

DATE: July 27, 2006

In Re:

SSN: -----

Applicant for Trustworthiness Determination

ADP Case No. 04-11670

APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) proposed to deny or revoke access to automated information systems in ADP-I and ADP-II sensitivity positions for Applicant. On July 19, 2005, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision--security concerns raised under Guideline B (Foreign Influence) 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 14, 2006, after considering the record, Administrative Judge Claude R. Heiny denied Applicant's request for a trustworthiness designation. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30. ⁽¹⁾

Applicant's appeal brief contains no assertion of error on the part of the Administrative Judge. It only contains new evidence, in the form of additional statements from the Applicant about her friends and family members in Russia, and three character reference letters. ⁽²⁾ The Board cannot consider new evidence on appeal. *See* Directive ¶ E3.1.29.

The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Administrative Judge committed harmful error. Applicant has not made an allegation of harmful error. Therefore, the decision of the Administrative Judge denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Chairman, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

1. The Administrative Judge found in favor of Applicant with respect to SOR paragraph 1.d. That favorable finding is not at issue on appeal.

2. In her appeal brief, Applicant states she was providing "additional information she had never been asked to provide before." A review of the record indicates Applicant was provided with the procedural rights set forth in Executive Order 10865 and the Directive, including an opportunity to respond to the government's file of relevant material. Although *pro se* applicants cannot be expected to act like a lawyer, 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).