

DATE: January 2, 1998

In Re:

-----

SSN: -----

Applicant for Security Clearance

ISCR Case No. 96-0650

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

William S. Fields, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

Administrative Judge Darlene Lokey Anderson issued a decision, dated September 17, 1997, in which she 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 decision is arbitrary, capricious, or contrary to law.

**Procedural History**

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) dated November 13, 1996 to Applicant. The SOR was based on Criterion H (Drug Involvement), Criterion G (Alcohol Consumption), and Criterion E (Personal Conduct).

A hearing was held on March 21, 1997. The Administrative Judge subsequently issued a written decision in which she entered a formal finding for Applicant under Criterion E, but made formal findings against him under Criterion H and Criterion G, and 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 Administrative Judge's adverse security clearance decision.

**Appeal Issue<sup>(1)</sup>**

Applicant contends the Administrative Judge's adverse decision should not be affirmed. In support of that contention, Applicant argues: (1) his heroin use began while he was stationed in Vietnam more than 20 years ago; (2) he was decorated while in the military and was honorably discharged without any help from the military for his heroin problem; (3) he eventually stopped use of illegal drugs on his own; (4) alcohol abuse, not drug abuse, has been his real problem;

(5) he has voluntarily sought treatment for his alcoholism on a number of occasions; (6) he has had many periods of sobriety over the years; (7) his relapse in 1995 was caused by the stress of long hours of work; (8) he has cooperated with his employer's assistance program to recover from his alcohol abuse; (9) he is committed to working on his alcohol recovery; (10) despite his past problems, he has never neglected his family, has never been violent, has never committed a crime against another person; and (11) he has never been a threat to the national security. The Board construes Applicant's brief as raising the issue of whether the Judge's decision is arbitrary, capricious, or contrary to law.

To some extent, Applicant's appeal brief seems to question some of the Administrative Judge's factual findings. In the decision, the Administrative Judge made findings of fact about: (a) Applicant's history of alcohol and drug abuse, which occurred with varying frequency over the last 20-25 years; (b) Applicant's treatments for substance abuse in 1981, 1982, 1983, 1992, and 1995; (c) Applicant's periods of sobriety and his relapses; and (d) Applicant's most recent rehabilitation efforts. Those findings are supported by the record evidence and are sustainable.

The Administrative Judge considered the recency, frequency, and seriousness of Applicant's alcohol and drug abuse, evaluated his efforts at rehabilitation, and applied pertinent provisions of the Adjudicative Guidelines. The Judge then concluded that it was too soon to find that Applicant's most recent efforts at rehabilitation would be successful because of his pattern of relapsing after prior rehabilitation efforts. The Judge's analysis was consistent with the requirements of the Directive under Section F.3. and the Adjudicative Guidelines. Furthermore, it was appropriate for the Judge to consider whether Applicant's rehabilitation efforts, work performance, and the favorable character evidence outweighed the evidence about his substance abuse history, or vice versa. *See, e.g.*, ISCR Case No. 96-0608 (August 28, 1997) at p. 4.

The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. Even though there is no evidence that Applicant ever committed a security violation, his overall history of substance abuse provides a rational basis for the Administrative Judge to question Applicant's security eligibility. *See, e.g.*, ISCR Case No. 96-0811 (August 21, 1997) at pp. 2-3 (even in absence of security violation, applicant's alcohol abuse provides rational basis for adverse decision). Considering the record as a whole, it was not arbitrary, capricious, or contrary to law for the Judge to conclude Applicant's overall history of substance abuse warranted an adverse security clearance decision despite his most recent efforts at rehabilitation.

## **Conclusion**

Applicant has failed to meet his burden on appeal of demonstrating error below. Accordingly, the Board affirms the Administrative Judge's September 17, 1997 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

1. The Administrative Judge's formal finding for Applicant under Criterion E is not at issue on appeal.