

DATE: November 18, 1997

In Re:

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SSN: -----

Applicant for Security Clearance

ISCR Case No. 96-0825

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

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

**FOR APPLICANT**

*Pro Se*

Administrative Judge Darlene Lokey-Anderson issued a decision, dated July 28, 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.

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: (1) whether the Administrative Judge considered all the record evidence and (2) 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) dated December 10, 1996 to Applicant. The SOR was based on Criterion G (Alcohol Consumption).

A hearing was held on May 14, 1997. The Administrative Judge later issued a written decision in which she 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 adverse decision.

**Appeal Issues**

1. Whether the Administrative Judge considered all the record evidence. Applicant challenges the Administrative Judge's conclusions by citing several aspects of the record evidence which he believes support a favorable decision in his case. The evidence Applicant cites tends to demonstrate his commitment to his current alcohol treatment program and his quality as an employee. The Administrative Judge indicated several times in her decision that she believed that Applicant intends to continue with his treatment program. The Administrative Judge was concerned, however, that Applicant's history of repeated failed alcohol treatments did not bode well in spite of Applicant's commitment to his current program. The Administrative Judge considered Applicant's evidence of his commitment to his program, however, she did not find his commitment would be enough to overcome his track record of past failed rehabilitation

efforts. Applicant's quality as an employee is not an issue in this case. Even if the Administrative Judge had found that Applicant was the finest employee ever, it is not clear how that would have been pertinent to her concerns about his alcohol history.

2. Whether the Administrative Judge's decision was arbitrary, capricious or contrary to law. Applicant believes that his record makes him eligible for a security clearance. We construe his argument as an assertion that the Administrative Judge's decision is arbitrary, capricious or contrary to law.

Appellant argues that he is committed to his current alcohol treatment program. The Administrative Judge concurred with Applicant on this point but she was not convinced that his good intentions would be sufficient in light of his history of multiple failed attempts to overcome alcohol. The Board has noted before that the ability of one party to argue for an alternative interpretation of the evidence does not demonstrate error. *See, e.g. ISCR Case No. 96-0695* (August 18, 1997) at p. 3.

Appellant also points to his history as an employee and his history of handling government information properly. Neither of those matters was an issue in dispute in this case. The prior handling of government information might seem pertinent to Applicant, but it is well established that the government need not wait until an applicant actually commits a security violation (*See, Adams v. Laird*, 420 F. 2d 230, 238-39 (D.C. Cir. 1969), *cert. denied*, 397 U.S. 1039 (1970)). All that is required is proof of facts and circumstances that indicate a particular applicant is at risk for mishandling classified information. The fact that Applicant's alcohol problems have not affected his job performance does not render arbitrary and capricious the Judge's conclusion that Applicant's alcohol history was disqualifying from a security perspective.

## **Conclusion**

Applicant has failed to meet his burden on appeal of demonstrating error that warrants remand or reversal. Accordingly, the Board affirms the Administrative Judge's 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