

DATE: March 25, 1998

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 97-0591

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Pro Se

Administrative Judge John G. Metz, Jr. issued a decision, dated December 3, 1997, 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 adverse 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 August 25, 1997 to Applicant. The SOR was based on G (Alcohol Consumption).

A hearing was held on November 20, 1997. The Administrative Judge issued a decision, dated December 3, 1997, 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 now before the Board on Applicant's appeal from the Judge's adverse decision.

Appeal Issue

The Administrative Judge made findings of fact about Applicant's history of alcohol abuse, which included episodic alcohol abuse and six convictions for driving while intoxicated during the period 1979-1996. The Judge applied pertinent provisions of the Directive's Adjudicative Guidelines and concluded Applicant's overall history of alcohol abuse warranted an adverse security clearance decision.

On appeal, Applicant does not challenge the Administrative Judge's findings about his history of alcohol abuse. Instead, Applicant argues: (1) he has dedicated his whole life to his job; (2) he now realizes he has a drinking problem and has a positive attitude about maintaining sobriety; and (3) he is now going through alcohol counseling and attending

Alcoholics Anonymous (AA) meetings. The Board construes Applicant's arguments as raising the issue of whether the Judge's adverse decision is arbitrary, capricious, or contrary to law.

Attached to Applicant's appeal brief is documentation in support of his claim that he is now undergoing alcohol counseling and attending AA meetings. That documentation, which postdates the Administrative Judge's decision, is new evidence that cannot be considered by the Board. *See* Directive, Additional Procedural Guidance, Item 29. Moreover, the Board cannot reasonably conclude the Judge's decision is arbitrary, capricious, or contrary to law based on new information that was not before the Judge.

In this case, the Administrative Judge's conclusions follow rationally from his unchallenged findings about Applicant's history of alcohol abuse and reflect a reasonable application of pertinent provisions of the Directive. The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. In evaluating an applicant's security eligibility, the Judge is not limited to considering an applicant's job performance. Indeed, the Judge can consider evidence of off-duty conduct that is relevant to assessing an applicant's judgment, reliability, and trustworthiness. *See, e.g.*, ISCR Case No. 97-0016 (December 31, 1997) at p. 5. Applicant's alcohol abuse did not occur during work hours. However, even off-duty alcohol abuse has security implications. *See, e.g.*, ISCR Case No. 96-0871 (January 29, 1998) at p. 3. Considering the record as a whole, Applicant's history of episodic alcohol abuse over the period 1979-1996 provides a rational basis for the Judge's adverse conclusions about Applicant's security eligibility.

Conclusion

Applicant has failed to meet his burden on appeal of demonstrating error below. Accordingly, the Board affirms the Administrative Judge's December 3, 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