

DATE: July 21, 1999

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 98-0751

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

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

FOR APPLICANT

Pro Se

Administrative Judge Robert R. Gales issued a decision, dated May 12, 1999, 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 is arbitrary, capricious, or contrary to law.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR), dated November 24, 1998, to Applicant. The SOR was based on Criterion F (Financial Considerations).

Applicant submitted an answer to the SOR, in which he stated he did not want a hearing. A File of Relevant Material (FORM) was prepared. A copy of the FORM was provided to Applicant. No response to the FORM was received from Applicant. The case was assigned to the Administrative Judge for determination. The Judge subsequently issued a written decision 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 before the Board on Applicant's appeal from the Administrative Judge's adverse security clearance decision.

Appeal Issue

Applicant does not challenge the Administrative Judge's findings of fact about his history of financial difficulties. There is no presumption of error below; the appealing party has the burden of raising and demonstrating error. *See* Directive, Additional Procedural Guidance, Item 30. Because Applicant has not challenged the Judge's findings of fact, the Board need not review those findings.

Applicant states that he: (a) has paid off one debt; (b) has set up schedules to repay three other debts; (c) is seeking information to resolve another debt; and (d) is working with another creditor to set up a schedule of payments. The Board construes Applicant's statements as raising the issue of whether the Judge's adverse decision is arbitrary, capricious, or contrary to law.

Applicant's statements concerning his efforts to address his financial problems are not supported by the record evidence. Accordingly, those statements constitute new evidence, which the Board cannot consider on appeal. Directive, Additional Procedural Guidance, Item 29. Furthermore, the Judge cannot be found to have committed error based on appellate consideration of matters that occurred after the close of the record below. *See, e.g.*, ISCR Case No. 98-0620 (June 22, 1999) at p. 3.

The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. *Snapp v. United States*, 444 U.S. 507, 511 n.6 (1980). Under Criterion F, the security eligibility of an applicant is placed into question when that applicant has a history of excessive indebtedness or recurring financial difficulties. *See, e.g.*, ISCR Case No. 98-0445 (April 2, 1999) at p. 3. The Administrative Judge's conclusions about Applicant's history of financial difficulties follow rationally from the Judge's unchallenged findings of fact. The Judge's adverse conclusions provide a rational basis for his adverse formal findings under Criterion F and his adverse security clearance decision.

Conclusion

Applicant has failed to meet his burden of demonstrating error below. Accordingly, the Board affirms the Administrative Judge's May 12, 1999 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