

DATE: May 4, 2000

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 99-0342

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Chief Department Counsel

FOR APPLICANT

Pro Se

Administrative Judge Elizabeth M. Matchinski issued a decision, dated December 14, 1999, 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 brief contests no specific finding of fact or conclusion of law in the Administrative Judge's decision below. The Board construes Applicant's appeal brief as presenting the issue of whether the Administrative Judge's adverse decision was arbitrary, capricious or contrary to law.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) dated August 11, 1999 to Applicant. The SOR was based on Criterion E (Personal Conduct), Criterion J (Criminal Conduct), and Criterion F (Financial Considerations). Applicant requested a hearing which was held on November 4, 1999. Subsequently, the Administrative Judge issued a decision in which she concluded that it is not clearly consistent with the national interest to grant or continue a clearance for Applicant. The case is before the Board on appeal from that adverse decision.

Appeal Issue

Whether the Administrative Judge's adverse decision was arbitrary, capricious or contrary to law? In February 1998 Applicant made false statements on his security clearance application with regard to his criminal history and his financial situation. The Administrative Judge concluded that Applicant's false statements and adverse financial history were valid reasons to deny Applicant a security clearance.⁽¹⁾ On appeal, Applicant does not contest any of the Administrative Judge's findings of fact or conclusions of law. Rather, he argues that the Board should consider his work history, his previous wife's condition when some of the pertinent conduct occurred, the fact that he has a supportive family now and his belief that he can make restitution of all delinquent debts within a year. The Board construes these arguments taken together as asserting that the Administrative Judge's decision was arbitrary, capricious or contrary to

law.

The Administrative Judge discussed Applicant's previous wife's medical situation at great length and made reference to Applicant's work history. There is no reason to believe that she gave those matters inadequate weight as she rendered her decision. As to Applicant's current family situation, regardless how positive their influence may be, Applicant has still not begun to pay off his creditors although he has some money to do so. Nor did the family's positive influence prevent Applicant's falsification of his security clearance application in February 1998. Considering the record as a whole, the Judge's weighing of the evidence, both favorable and unfavorable, was not arbitrary, capricious, or contrary to law.

The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Security clearance decisions are not exact science, but rather predictive judgments about a person's security suitability in light of that person's past conduct and present circumstances. *Department of Navy v. Egan*, 484 U.S. 518, 528-529 (1988). Given Applicant's overall history, the Board concludes that the Administrative Judge's analysis reflects a plausible interpretation of the record evidence and that her adverse security clearance decision is not arbitrary, capricious, or contrary to law.

Conclusion

Applicant has failed to meet his burden on appeal of demonstrating error. Accordingly the Board affirms the Administrative Judge's December 14, 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

1. There was one bad debt (out of several) alleged in the SOR which was found for Applicant. That debt is not an issue on appeal.