

KEYWORD: Guideline G; Guideline E

DIGEST: The Judge’s challenged statement is sustainable. In light of the record as a whole, the Judge ultimate conclusions are not arbitrary capricious or contrary to law. Adverse decision sustained.

CASENO: 05-03305.a1

DATE: 05/10/2007

DATE: May 10, 2007

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In Re:	)	
	)	
-----	)	ADP Case No. 05-03305
SSN: -----	)	
	)	
Applicant for Trustworthiness Determination	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq, Chief Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) proposed to deny or revoke Applicant’s access to unclassified automation systems in an ADP-I/ II/ III sensitivity position. On October 26, 2005, DOHA issued a Statement of Reasons advising Applicant of the basis for that proposal—trustworthiness concerns raised under Guideline G (Alcohol Consumption) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On November 21, 2006, after

considering the record, Administrative Judge Jacqueline T. Williams denied Applicant's request for access to an ADP-I/ II/ III position. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant alleges the following issue on appeal: whether the Judge's statement that Applicant's alcohol problems span more than 30 years is supported by record evidence. We also construe Applicant's appeal as alleging that the Judge's overall decision is arbitrary, capricious, and contrary to law.

The Judge made the following sustainable findings: Applicant has "consumed alcohol, at times to excess and to the point of intoxication, from approximately 1969 until at least 2001." On four occasions, Applicant was arrested and charged with operating a motor vehicle while intoxicated. He received hospital treatment from August 2002 until March 2003 for Alcohol Abuse/Dependence. Applicant denied continuing to use alcohol following this treatment, although his medical records show that he admitted consuming two beers in May 2003.

The challenged statement occurs in the Conclusions section of the decision. Given the Judge's finding that Applicant's alcohol use began in 1969, we find no error in the statement. Furthermore, in light of the Judge's findings and the record as a whole, we conclude that her decision is not arbitrary, capricious, nor contrary to law.

### **Order**

The Judge's decision denying Applicant a trustworthiness designation is AFFIRMED.

Signed: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board

