

KEYWORD: Guideline F

DIGEST: The Board cannot consider Applicant's new evidence on appeal. Adverse decision affirmed.

CASENO: 06-10663.a1

DATE: 10/03/2007

DATE: October 3, 2007

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 06-10663
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APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On August 16, 2006, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations)

of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested the case be decided on the written record. On April 11, 2007, after considering the record, Administrative Judge Noreen A. Lynch denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence: (a) a document from the Internal Revenue Service showing the current amount still owed by Applicant, (b) a document from the State of Wisconsin showing Applicant has paid off his outstanding back taxes, interests, penalties and fees, and (c) a statement by the Applicant explaining the origin and circumstances of his financial problems.¹ The Board cannot consider this new evidence on appeal. *See* Directive ¶ E3.1.29.

The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. It does not review cases *de novo*. Applicant has not made an allegation of harmful error. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairman, 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

¹Applicant requested that the case be decided upon the written record, and then did not respond to the government's file of relevant material. The Judge based her decision upon the record that was before her, noting that: "With the government's case established, the burden shifts to Applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him." Decision at 5.