

KEYWORD: Guideline G; Guideline H

DIGEST: In light of the Judge’s findings regarding Applicant’s lengthy history alcohol and drug abuse, the Judge’s conclusions are sustainable. Adverse decision affirmed.

CASENO: 07-02480.a1

DATE: 04/30/2008

DATE: April 30, 2008

In Re:)	
)	
-----)	ISCR Case No. 07-02480
)	
Applicant for Security Clearance)	
)	

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) declined to grant Applicant a security clearance. On August 20, 2007, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline G (Alcohol Consumption) and

Guideline H (Drug Involvement) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. The SOR was amended prior to the hearing to add allegations under Guideline E (Personal Conduct). On January 28, 2008, after the hearing, Administrative Judge Roger C. Wesley denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's failure to mitigate the Guideline G, H and E security concerns is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge found Applicant had a lengthy and serious history of alcohol and drug abuse. Applicant had consumed alcohol, at times in excess and to the point of intoxication, from approximately 1972 to at least 2006. He had been arrested for DWI in 1997, although the charge was ultimately dismissed. Applicant had used marijuana, at times daily, from approximately 1977 to at least 1988, and he had used cocaine, at times monthly, from approximately 1977 to 2004. He had used cocaine while holding a security clearance, and he had tested positive for cocaine in a random drug test at his employment in 2004. In 1986, Applicant had received outpatient treatment for a condition diagnosed in part as alcohol abuse and poly-pharmacy abuse. Although his prognosis had been good, Applicant had resumed drinking alcohol and using marijuana approximately six months after completing the program. The Judge also found Applicant had made a series of misstatements and omissions about his alcohol and drug use in three signed, sworn statements to government investigators.

The Board has examined the Judge's decision in light of the record as a whole and concludes that the Judge has drawn "a rational connection between the facts found" under Guidelines G, H and E and his adverse decision. *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). Accordingly, the Judge's adverse decision is neither arbitrary, capricious, nor contrary to law.

Order

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: Jean E. Smallin
Jean E. Smallin

Administrative Judge
Member, Appeal Board

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