

KEYWORD: Guideline E; Guideline H

DIGEST: The Judge's material findings of security concern are supported by substantial evidence. Adverse decision affirmed.

CASENO: 07-08147,a1

DATE: 09/10/2008

DATE: September 10, 2008

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 07-08147
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**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 October 19, 2007, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline E (Personal Conduct) and Guideline H (Drug Involvement) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 30, 2008, after the hearing, Administrative Judge John Grattan Metz, Jr., denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether certain of the Judge’s findings of fact were supported by substantial evidence; and whether the Judge erred in his application of the pertinent mitigating conditions. Finding no error, we affirm.

The Judge made the following sustainable findings of fact: Applicant is a security assistant employed by a defense contractor. In November 2004, Applicant submitted a security clearance application (SCA), in which he provided information that was not correct. He answered “no” to Question 27, which inquired as to whether he had used illegal drugs during the previous seven years. He also answered “no” to Question 30, which inquired as to delinquent debts over ninety days old. In fact, Applicant had smoked marijuana the previous March, while employed as a background investigator for another government contractor. He also had three delinquent debts which were more than ninety days old. In addition, in March 2004 Applicant was fired from a job as a background investigator for a government contractor for having falsified two investigative reports.

We have examined the Judge’s decision in light of the record and conclude that his material findings of security concern are supported by substantial record evidence. *See* Directive ¶E3.1.32.1. (Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.”) We have also examined the Judge’s decision, paying close attention to his analysis of Applicant’s false statements. The Judge’s conclusion that Applicant deliberately provided false information is sustainable. Furthermore, the Judge has drawn a rational connection between the facts found and his ultimate adverse security clearance decision. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). *See also 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 Judge’s decision that “it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant” is sustainable on this record. Decision at 5. *See Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

**Order**

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Jeffery D. Billett  
Jeffrey D. Billett  
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