

KEYWORD: Guideline H; Guideline E

DIGEST: Applicant asserts that he submitted documents which never reached the Judge. Department counsel does not contest the matter. Adverse decision remanded.

CASENO: 08-08812.a1

DATE: 05/11/2009

DATE: May 11, 2009

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In Re: )  
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 ----- ) ISCR Case No. 08-08812  
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 )  
 Applicant for Security Clearance )  
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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Tom Coale, Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On December 31, 2008, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline H (Drug Involvement) 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 April 10, 2009, after considering the record, Administrative Judge Henry Lazarro denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant’s appeal consists solely of his claim that he had submitted documents in response to the File of Relevant Material (FORM) that did not reach the Judge and which were not included in the record. He requests an expedited remand of his case to enable the Judge to consider his response to the FORM. By reply brief, Department Counsel does not oppose this course of action.

Accordingly, the case is hereby remanded to the Judge for further processing. Nothing about this action shall prejudice the appeal rights of the parties.

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