

KEYWORD: Guideline J; Guideline G; Guideline F

DIGEST: 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. Because Applicant has not made such an allegation, the decision of the Judge denying Applicant a security clearance is affirmed. Adverse decision affirmed.

CASENO: 15-05250.a1

DATE: 06/13/2017

DATE: June 13, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 15-05250
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APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 13, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline J (Criminal Conduct), Guideline G (Alcohol Consumption), and Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 27, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley denied Applicant’s request for a security clearance. The Judge found in favor of Applicant

on the Guideline F allegations and against him on the Guideline J and Guideline G allegations. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no assertion of harmful error on the part of the Judge.¹ Instead, Applicant argues that security concerns discussed in the Judge's decision are no longer valid. In doing so, he makes assertions from outside the record, such as asserting that he successfully completed his criminal probation after the security clearance hearing, providing further information about an alcohol assessment admitted into evidence at the hearing, and expressing a willingness to participate in certain alcohol tests in the future. We cannot consider such new evidence on appeal. Directive ¶ E3.1.29.

The Board does not review cases *de novo*. 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. Because Applicant has not made such an allegation, the decision of the Judge denying Applicant a security clearance is **AFFIRMED**.

Signed: Michael Ra'anan
Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

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

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board

¹ Applicant noted the Judge mistakenly indicated that Applicant was picking up his current fiancée, instead of an ex-girlfriend, when he was arrested for driving while intoxicated in 2011. He does not argue this was a harmful error, and it is unlikely such an error would have affected on the ultimate decision in this case. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).