

KEYWORD: 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. This decision is sustainable because Applicant’s appeal brief contains no assertion of harmful error on the part of the Judge. Adverse decision affirmed.

CASENO: 15-06575.a1

DATE: 10/19/2017

DATE: October 19, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 15-06575
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APPEAL BOARD DECISION

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 June 14, 2016, DoD 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 a decision

on the written record. On July 25, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge John Grattan Metz, Jr., denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

In his appeal brief, Applicant states:

. . . I am not in favor of the outcome because I have concluded that some old evidence that supports my case wasn't successfully submitted causing the outcome of my case to result in denial. I am also cognizant that my case was also in the hands of different employees hence not getting individual attention on the mentioned case therefore I am requesting an appeal.¹

Applicant's appeal brief does not contain a copy of the evidence that he claims was not considered. He has not identified the nature of that evidence, who submitted it, when it was submitted, or to whom it was submitted. Additionally, we note that Department Counsel's File of Relevant Material (FORM) was mailed to Applicant on September 15, 2016. The forwarding letter advised Applicant that the FORM consisted of relevant material that will be submitted to an Administrative Judge so that a security clearance determination could be made in his case. Applicant received the FORM on September 26, 2016, and was given 30 days from its receipt to submit any objections or additional information that he wished to be considered. The FORM also advised that, "[i]f you do not file any objections or submit any additional information . . . your case will be assigned to an Administrative Judge for a determination *based solely on this File of Relevant Material.*" [Emphasis added]. FORM at 3. Applicant received adequate notice that, if he wanted the Judge to consider matters beyond those contained in the FORM, he needed to submit those matters. Applicant did not submit a response to the FORM. From our review of the record, we conclude that Applicant has failed to establish a *prima facie* case that he was denied due process. *See, e.g.*, ISCR Case No. 15-02933 at 2 (App. Bd. Sep. 23, 2016).

The Board does not review a case *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. This decision is sustained because Applicant's appeal brief contains no assertion of harmful error on the part of the Judge.

¹ Regarding the second quoted sentence, the Board construes Applicant's argument as raising a complaint that too many people are involved in his security clearance adjudication. The Board's authority is limited as set out in Directive ¶¶ E3.1.32-E3.1.35. The second quoted sentence raises matters that are not within the Board's authority.

Order

The Decision 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