

Applicant raised the following issue on appeal: whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

From 2007 to 2011, Applicant abused oxycodone and percocet, becoming addicted to opiates. She also purchased and used marijuana. At the time of this conduct, Applicant worked for a Defense contractor that had a policy against the illegal use of controlled substances. By summer of 2011, Applicant began injecting heroin to deaden the pain of her liver disease. She was spending about \$100 a day on heroin. Later that year, she entered into a detoxification and substance abuse treatment program. Applicant completed the rehab program. Upon discharge a year later, she was advised to attend a support group such as Narcotics Anonymous (NA) in order to maintain sobriety. She attended NA for about six months but then stopped. Applicant has had no counseling since 2012. Although she stopped using heroin and opiates, she continued to use marijuana. She finally stopped using marijuana after a DWI arrest in October 2012.

In 2011, Applicant completed an application for a public trust position, upon which she did not report her illegal drug involvement. In her answer to the SOR, she admitted that she falsified her response, characterizing her omissions as "wrong and dishonest." Decision at 5. In 2015, Applicant completed a security clearance application (SCA). She reported most of her substance abuse problems, but stated that she stopped using drugs in October 2011, when she entered rehab. She did not disclose her marijuana use in 2012. She denied that this omission was deliberate. She also stated in her SCA that she continued to receive counseling for substance abuse problems and to go to meetings in order to maintain sobriety. She presented no evidence of such counseling, however.

The Judge's Analysis

The Judge stated that Applicant made a strong case for mitigation of the Guideline H concerns, citing her five years of sobriety and her good employment record. However, he noted that she had a long history of substance abuse and that she did not continue with counseling. Her falsification of two Federal forms also weighed against a favorable conclusion.

Regarding Guideline E, the Judge found that Applicant had deliberately falsified her 2015 SCA. He found her explanation for the omission to be lacking credibility. He also noted another false claim in her SCA, that she had continued to go to counseling. In the whole-person analysis, the Judge noted Applicant's success in overcoming drug addiction. He found, however, that her lack of candor in reporting her substance abuse history raised unmitigated concerns about her trustworthiness and reliability.

Discussion

Applicant cites to favorable evidence, such as her five years of sobriety, her employment record, and her letters of reference. She also notes that she did disclose some of her drug use in her 2015 SCA, which, she contends, shows that she is trustworthy. Applicant has not rebutted the

presumption that the Judge considered all of the evidence in the record, nor has she shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017). Applicant argues that, if she had possessed an actual intent to deceive, she would have left out all of her drug use in 2015. However, considering the Decision as a whole, we conclude that the Judge’s finding of deliberate omission of marijuana use until late 2012 is supportable. Among other things, the multiple nature of Applicant’s omissions supports the challenged finding. *See, e.g.*, ISCR Case No. 14-02567 at 4-5 (App. Bd. Oct. 5, 2015). The Hearing Office cases that the Judge cites are not sufficient to undermine the Judge’s analysis and conclusions. In any event, Hearing Office case are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Feb. 15, 2017).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “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). *See also* Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

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

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

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