

KEYWORD: Guideline H

DIGEST: Applicant used marijuana three times a week from 1983 until early 2015. Adverse decision affirmed.

CASENO: 16-01687.a1

DATE: 12/1/2017

DATE: December 1, 2017

In Re:)	
)	
-----)	ISCR Case No. 16-01687
)	
Applicant for Security Clearance)	
)	
)	

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 September 6, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline H (Drug Involvement) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On August 16, 2017, after the close of the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Thomas M. Crean denied Applicant’s request for a security clearance. Applicant appealed, pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issue on appeal: whether the Judge’s adverse decision is

arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge made the following findings: Applicant is 51 years old. In answer to an e-QIP question, Applicant noted that he used marijuana three times a week from 1983 until early 2015. Applicant wrote to an adjudicator that he no longer uses alcohol or drugs. He reported that he has been sober for eight years and not used marijuana for two years.

Applicant's e-QIP and response to the SOR include admissions that he used marijuana when he was in military (1983-1989). Applicant's response to the FORM says that he did not use marijuana during his military service. The Judge found that Applicant did use marijuana when he was in the military.

The Judge concluded: Applicant's use of marijuana three times a week for 32 years was frequent, recent and deliberate. The Judge noted Applicant's stated intent to refrain from future use and his participation in AA, but concluded that Applicant has not yet mitigated his extensive marijuana use.

Applicant asserts that his marijuana use is part of his past and not part of his future. Applicant fails to establish error. A review of the Judge's decision and the record evidence indicates that the Judge accurately described Applicant's past history of marijuana use, and accurately acknowledged the period where Applicant abstained from marijuana use. The Board finds no reason to believe that the Judge failed to consider all the evidence of record. *See, e.g.*, ISCR Case No. 16-00076 at 2 (App. Bd. Oct. 20, 2017). The Judge's conclusion reflects a reasonable interpretation of the record evidence. A party's ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-07654 at 2-3 (App. Bd. Oct. 25, 2017).

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision. "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* 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 of the Judge is **AFFIRMED**.

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

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

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