

KEYWORD: Guideline B

DIGEST: Applicant has not made an allegation of harmful error on the part of the Judge. Adverse decision affirmed.

CASE NO: 16-01653.a1

DATE: 01/24/2018

DATE: January 24, 2018

In Re:)	
)	
-----)	ISCR Case No. 16-01653
)	
Applicant for Security Clearance)	

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 June 17, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On October 10, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gregg A. Cervi denied Applicant’s request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant requested that his case be decided on the written record and provided a one-page narrative response to the government's File of Relevant Material (FORM). His appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence including a narrative statement by the Applicant describing changes in his situation subsequent to the close of the record that might mitigate the identified security concerns. Some of this new evidence relates to allegations in which the Judge found in Applicant's favor.

The Board cannot consider new evidence on appeal. *See* Directive ¶ E3.1.29. Additionally, 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. Applicant has not made an allegation of harmful error on the part of the Judge. Therefore, the decision of the Judge is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. 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