

KEYWORD: Guideline E; Guideline F

DIGEST: Applicant has not challenged the Judge's adverse findings and conclusions regarding the falsification allegation, which is sufficient independently to support the unfavorable decision. Adverse decision affirmed.

CASENO: 17-00782.a1

DATE: 06/29/2018

DATE: June 29, 2018

In Re:

Applicant for Security Clearance

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) ISCR Case No. 17-00782
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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 April 27, 2017, 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 hearing. At the hearing, the SOR was amended to add an allegation under Guideline E (Personal Conduct). On March 27, 2018, after considering the record, Administrative Judge Eric H. Borgstrom denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

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 and Analysis

Applicant, a 38-year-old employee of a defense contractor, is not married and has no children. Under Guideline F, the SOR alleged that he had two delinquent debts and that his financial problems were linked to gambling. The Judge found in favor of Applicant on the two debts and against him on the gambling-related allegation.

Applicant gambled regularly from about 2008 to 2012. During that time period, he withdrew about \$75,000 in cash advances from credit cards for gambling. He voluntarily filed a lifetime self-exclusion from casinos in his state of residence. He abstained from gambling for a couple of years, but then resumed gambling every month or two in another state. Although he no longer took cash advances from credit cards, he became financially overextended due to gambling in 2015 and 2016. He has not obtained counseling for his gambling problem. In 2017, he voluntarily filed a lifetime self-exclusion from casinos in the other state. “Applicant testified that he was previously addicted to gambling, but he believes that he is no longer addicted.” Decision at 3.

In a background interview in 2016, Applicant attributed a mortgage delinquency to holiday spending. He did not disclose his gambling losses and stated he had not experienced any continued debt due to gambling.

Disqualifying condition 19(h), *borrowing money or engaging in significant financial transactions to fund gambling or pay gambling debts*, applied. Applicant has not sought counseling or other support for his gambling, and his recent relapse continues to cast doubt on his judgment and reliability. Even though he has taken action to exclude himself from casinos in two states, his self-exclusion has not worked in the past. He has not demonstrated that a relapse is unlikely to recur. Applicant also deliberately provided false or misleading information during his background interview when he stated his mortgage deficiency was the result of holiday spending and omitted information about his gambling losses. This deliberate omission raises a significant security concern that is not mitigated by his positive character evidence.

Discussion

In his appeal brief, Applicant emphasizes that he is self-excluded from casinos in two states, *i.e.*, the only locations where his gambling problems have occurred; that he has abstained from gambling since late 2016; and that his mortgage loan delinquencies in 2015 and 2016 did not exceed more than one month's payment on each occasion. He also contends that the Judge disregarded his character evidence. His arguments are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-03747 at 3 (App. Bd. Nov. 13, 2015). We note that Applicant has not challenged the Judge's adverse findings and conclusions regarding the falsification allegation, which is sufficient independently to support the unfavorable decision. Applicant states that the Judge's decision has affected his employment, since he requires a clearance for his job. The Directive does not permit us to consider the impact that an unfavorable decision might have upon an applicant. *See, e.g.*, ISCR Case No. 17-10492 at 2 (App. Bd. Apr. 30, 2018).

Applicant has not identified any harmful error in the Judge's decision. 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