

KEYWORD: Guideline F

DIGEST: The Board cannot consider new evidence on appeal. Although pro se applicants are not expected to act like lawyers, they are expected take reasonable and timely steps to preserve their rights. Adverse decision affirmed.

CASENO: 05-03307.a1

DATE: 05/07/2007

DATE: May 7, 2007

In Re:)	
)	
-----)	
SSN: -----)	ISCR Case No. 05-03307
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On January 20, 2006, DOHA 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 the case be decided on the written record. On December 27, 2006, after considering the record, Administrative Judge Juan J. Rivera denied Applicant’s request for a security clearance.

Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no assertion of error on the part of the Judge. Rather, it contains new evidence in the form of a statement from Applicant and documentary exhibits which indicate that Applicant has paid off the debts listed in the SOR. The Board cannot consider new evidence on appeal. *See* Directive ¶ E3.1.29.

In this case, Applicant elected to have a decision based upon the written record. The Judge based his decision, in part, on the fact that Applicant had provided insufficient documentary evidence to corroborate his assertions that he had paid off, disputed, or otherwise resolved the debts at issue.¹ The Board has previously noted that it is reasonable for a Judge to expect applicants to present documentation about the satisfaction of specific debts. *See* ISCR Case No. 04-10671 at 3 (App. Bd. May 1, 2006). In his brief, Applicant states “. . . I didn't know I needed to provide evidence.”² A review of the record indicates Applicant was provided with the procedural rights set forth in Executive Order 10865 and the Directive, including an opportunity to respond to the government's file of relevant material. Although *pro se* applicants cannot be expected to act like a lawyer, they are expected to take timely, reasonable steps to protect their rights under the Directive. *See, e.g.*, ISCR Case No. 00-0593 at 4 (App. Bd. May 14, 2001). If they fail to take timely, reasonable steps to protect their rights, that failure to act does not constitute a denial of their rights. *See, e.g.*, ISCR Case No. 02-19896 at 6 (App. Bd. Dec. 29, 2003).

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. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

Signed: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

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

Signed: James E. Moody
James E. Moody

¹Decision at 3.

²Applicant's Appeal Brief at 1.

Administrative Judge
Member, Appeal Board