

of the basis for that decision—security concerns raised under Guideline G (Alcohol Consumption) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On August 30, 2007, after the hearing, Administrative Judge Jacqueline T. Williams granted Applicant’s request for a security clearance. Department Counsel timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.¹

Department Counsel raised the following issue on appeal: whether the Judge’s application of Guideline G Mitigating Condition 23 (b)² is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge made the following relevant findings: Applicant is 37 years old and works as a network engineer for a defense contractor. He was involved in multiple alcohol-related incidents between 1990 and 2003. Applicant was found guilty of driving while intoxicated in 1990, 1994, and 1995. He was found guilty of reckless driving in 2000. Applicant’s alcohol-related charges in 1995 and 2003 were either dismissed or resulted in not guilty findings. The 2003 incident involved a serious accident in which Applicant survived a near death experience. As a result, Applicant ceased drinking alcohol completely from October 2003 to February 2005. Since 2005 he has consumed a glass of wine on several occasions but has not been drunk or otherwise impaired. Character references who were aware of his past alcohol abuse attested to his professionalism, integrity, and reliability, or to his favorable life style changes and responsible approach to alcohol since the 2003 incident.

In deciding favorably for Applicant under Guideline G, the Judge concluded that Applicant’s conduct since the 2003 accident established a pattern of responsible alcohol use. That conclusion is consistent with a reasonable interpretation of the record evidence and is not arbitrary, capricious, or contrary to law. There was no evidence that Applicant had ever been diagnosed as alcoholic or alcohol dependent and received a recommendation to totally abstain from using alcohol. Nor was there any evidence that Applicant currently consumes alcohol in excess or to the point of intoxication. On the contrary, the record evidence indicated that since the 2003 incident Applicant had a total of only four or five glasses of wine, of which two glasses were at a single setting.³ *See, e.g.,* ISCR Case No. 03-12237 at 5 (App. Bd. Jul. 25, 2006).

Department Counsel offers a plausible alternative interpretation of the record evidence. However, that alternative interpretation of the record evidence is of no moment. The Board does not review a case *de novo*. A party’s disagreement with the Judge’s weighing of the evidence, or an 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* ISCR Case No. 06-08116 at 2 (App. Bd. Jul. 2, 2007).

¹The Judge found in favor of Applicant under Guideline E. That favorable finding was not appealed by Department Counsel.

²“[T]he individual acknowledges his or her alcoholism or issue of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser).”

³ Transcript at 71-72.

Order

The decision of the Judge granting 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
Administrative Judge
Member, Appeal Board