

Date : September 10, 1997

In RE:

Applicant for Security Clearance

ISCR Case No. 97-0393

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

Appearances

FOR THE GOVERNMENT

Martin H. Mogul

Department Counsel

FOR THE APPLICANT

Pro Se

STATEMENT OF THE CASE

On May 23, 1997, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) (copy appended) to ----- (Applicant), which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

The applicant responded to the SOR in writing on June 2, 1997 and elected to have his case decided on a written record in lieu of a hearing. Department Counsel submitted the Government's written case on or about July 18, 1997. The applicant did not file a response to the Government's case. The case was received by the undersigned on September 10, 1997.

FINDINGS OF FACT

Applicant is a forty-two year old married man. He has been employed by the same defense contractor since 1976, and has held a DoD security clearance since January 1996.

In a signed, sworn statement that he gave to the Defense Investigative Service (DIS) on April 15, 1997 (G-5), applicant stated that he used marijuana in "1971, approx. 8-10 yrs later & Sept 96, and have not used any since." He further stated that he used "1 joint a weekend a month." In his response to the SOR, he stated, "I do not feel that further use of marijuana by me will ever occur."

In September 1996 applicant took a drug test at his place of employment. After the test revealed he had used marijuana, applicant enrolled in a rehabilitation program recommended by his employer. In his response to the SOR, applicant stated that he received treatment at the program from October 11, 1996 to January 20, 1997 for a condition diagnosed as

Cannabis Dependence.

POLICIES

Enclosure 2 of the Directive sets forth the Adjudication Policy (divided into Disqualifying Factors and Mitigating Factors) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following Disqualifying Factors and Mitigating Factors are applicable:

DRUG INVOLVEMENT

Disqualifying Factors:

1. Any drug abuse

Mitigating Factors:

None.

CONCLUSIONS

The evidence establishes that applicant used marijuana on an episodic basis from 1971 through September 1996. This illegal drug use, particularly after he received a DOD security clearance, reflects adversely on applicant's judgment, reliability and trustworthiness, and strongly suggests that he cannot be relied upon to safeguard classified information.

Applicant states that he has not used marijuana since September 1996, and does not "feel" he will use it again. Even if this uncorroborated statement is accepted at face value, the recency (approximately one year ago) and extent of his marijuana abuse (on and off for twenty-five years) precludes a finding, at the present time, that applicant can and will abstain from the use of marijuana. For this reason, Criterion H is found against applicant.

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for applicant.

Joseph Testan

Administrative Judge