

KEYWORD: Guideline F

DIGEST: Applicant submits evidence which, although several months old, was not presented to the Judge and is, therefore, new evidence for our purposes. The Board cannot consider Applicant's new evidence on appeal. Adverse decision affirmed.

CASENO: 09-06289.a1

DATE: 02/01/2011

DATE: February 1, 2011

In Re:)	
)	
-----)	ISCR Case No. 09-06289
)	
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 May 6, 2010, 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 a hearing. On November 22, 2010, after the hearing, Administrative Judge Carol G. Ricciardello denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no assertion of harmful error on the part of the Judge. Rather, it contains new evidence, in the form of a statement by the Applicant and a state court record referencing the judicial sale of a house for which Applicant had co-signed on the mortgage with his father. The sale had apparently occurred nine months prior to the hearing, but Applicant did not become aware of it until after the hearing.

The Board cannot consider Applicant's new evidence on appeal. *See* Directive ¶ E3.1.29. 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 denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: Jeffery D. Billett

Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

Signed: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board