

KEYWORD: Guideline F

DIGEST: The Board cannot consider Applicant's new evidence on appeal. Adverse decision affirmed.

CASENO: 09-06672.a1

DATE: 03/18/2011

DATE: March 18, 2011

In Re:)
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-----) ISCR Case No. 09-06672
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)
Applicant for Security Clearance)
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)

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 17, 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 that the case be decided on the written record. On January 27, 2011, after considering the record, Administrative Judge Jennifer I. Goldstein 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, based upon the record that was before her. Rather, it contains new evidence, in the form of documents indicating that scheduled payments on Applicant’s outstanding debts are being made in accordance with debt repayment plans. In her decision, the Judge had noted that “[w]hile [Applicant] submitted evidence of promises to pay on the debts . . . he did not submit evidence of any actual payments.” Decision at 6.

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 based upon the record that was before her. 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: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

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