

KEYWORD: Guideline F

DIGEST: Applicant does not allege any harmful error by the Judge. Adverse decision affirmed.

CASENO: 10-06703.a1

DATE: 05/04/2012

DATE: May 4, 2012

In Re:)
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)
 -----) ISCR Case No. 10-06703
)
)
 Applicant for Security Clearance)
)
)

APPEAL BOARD DECISION

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 October 21, 2011, 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 February 29, 2012, after the hearing, Administrative Judge Noreen A. Lynch denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief makes no assertion of harmful error on the part of the Judge. Rather, he asserts that his attorney was ineffective. He asks that we grant him a new hearing.

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. *See* Directive ¶ E3.1.32. In this case, Applicant has not alleged that the Judge committed error. His sole issue is that of ineffective assistance of counsel,¹ which does not apply in civil proceedings, such as DOHA cases. *See, e.g.*, ISCR Case No. 96-0127 (App. Bd. Jul. 29, 1997) and cases cited therein. Regarding the rights afforded Applicant by the Directive, Applicant had a hearing at his request and submitted documentary evidence. The Board does not review cases *de novo*. 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: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

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

¹Applicant submitted a second brief after the Board had accepted the Chief Department Counsel's Reply Brief. The second brief also did not allege any error by the Judge. Furthermore, the Directive only authorizes one brief per party. Finally, this is not the correct forum for pursuing claims against one's attorney.