

KEYWORD: Guideline J; Guideline E

DIGEST: The Board may not consider new evidence on appeal. The Board’s authority is limited to cases in which the appealing party has alleged the Judge committed harmful error. Adverse decision affirmed.

CASE NO: 11-06804.a1

DATE: 08/30/2012

DATE: August 30, 2012

In Re:	)	
	)	
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	)	
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 February 3, 2012, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline J (Criminal Conduct) and Guideline E (Personal Conduct) 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 June 26, 2012, after the close of the record, Administrative Judge Elizabeth M. Matchinski 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 makes no assertion of harmful error on the part of the Judge. He makes a number of comments concerning the written record and offers them as an explanation for his conduct. He also states that in the course of his employment he does not come into direct contact with classified information. Some of these representations are not contained in the record below.

The Board may not consider new evidence on appeal. *See* Directive ¶ E3.1.29. Additionally, the 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. The Board does not review cases *de novo*. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: Jean E. Smallin  
Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

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