

KEYWORD: Guideline F

DIGEST: Applicant's appeal brief raises no allegation of harmful error on the part of the Judge. Rather, it contains documents and assertions that are not in the record. The Appeal Board is prohibited from considering new evidence. Directive ¶ E3.1.29. Adverse decision affirmed.

CASENO: 18-00287.a1

DATE: 04/03/2019

DATE: April 3, 2019

In Re: _____)
-----) ISCR Case No. 18-00287
)
Applicant for Security Clearance)
_____)

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 17, 2018, DoD 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 decision on the written record. On January 2, 2019, after considering the record, Administrative Judge Paul

J. Mason denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶ E3.1.28 and E3.1.30.

Applicant's appeal brief raises no allegation of harmful error on the part of the Judge. Rather, it contains documents and assertions that are not in the record.¹ The Appeal Board is prohibited from considering new evidence. Directive ¶ E3.1.29. In the decision , the Judge noted that certain documentation was missing from Applicant's responses to the SOR and File of Relevant Material. On appeal, Applicant essentially contends such information was not requested from him. However, once the SOR allegations were admitted or proven, the burden was on Applicant to present evidence to rebut, explain, extenuate, or mitigate the security concerns arising from those allegations. Directive ¶ E3.1.15. Although *pro se* applicants are not expected to act like lawyers, they are expected to take timely and reasonable steps to exercise and protect their rights under the Directive. *See, e.g.*, ISCR Case No. 12-02371 at 3 (App. Bd. Jun. 30, 2014).

The Board does not review cases *de novo*. 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. Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a security clearance is **AFFIRMED**.

Signed: Michael Ra'anan

Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board

Signed: Charles C. Hale

Charles C. Hale
Administrative Judge
Member, Appeal Board

¹ Applicant contends that the information provided in his appeal brief "is not new to the case, it has just since been updated." Appeal Brief at 1. Information not previously submitted to the Judge for consideration constitutes new evidence that the Appeal Board cannot consider. *See, e.g.*, ISCR Case No. 14-06491 at 2 (App. Bd. Apr. 15, 2016).