

Date: November 17, 2022

In the matter of:)
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)
Applicant for Security Clearance)
_____)

ISCR Case No. 21-01300

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 June 11, 2021, 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 hearing. On September 20, 2022, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Candace Le'i Garcia denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact and Analysis

In her early 30s, Applicant is a single mother of three. She attended college but did not receive a degree. Applicant was fired from a job in late 2016, after which she experienced a period

of unemployment. She has worked for her current employer since 2020 and has never held a security clearance.

Applicant's SOR alleges numerous delinquent debts, including two student loans totaling over \$30,500. It also alleges delinquent consumer debts and numerous delinquent medical debts. Applicant admitted the SOR allegations, which are also established by the record evidence. Applicant attributed her financial problems to her unemployment, diminished income, various medical issues, moving costs, and being a single mother. She acknowledged during her clearance interview that she had resolved several smaller financial obligations and planned to resolve the remaining ones by negotiating with creditors and through debt consolidation. The Judge found that Applicant was making payments on some of her medical debts. Applicant received credit counseling, has maintained a budget, has no other delinquent debts as of the date of the hearing, and expects a substantial refund from her income tax return that she will use to resolve her financial problems.

The Judge noted circumstances outside Applicant's control that affected her financial difficulties and resolved some of the medical debts in her favor. She also favorably resolved two allegations that were duplicates of two others. However, for the bulk of the allegations, including the student loans, the Judge concluded that Applicant had not demonstrated responsible action or good-faith efforts to pay her debts. The Judge stated that Applicant's finances are not under control and that her financial concerns continue to cast doubt upon her judgment, trustworthiness, and reliability.

Discussion

Applicant states that she was not prepared for the hearing. To the extent that she is contending that she was in some way denied due process, we note that along with the SOR Applicant received a copy of the Directive, which describes the hearing procedures in detail and sets forth an applicant's rights and obligations regarding the presentation of mitigating evidence. She also received a memorandum from Department Counsel that advised her of her right to an attorney, her opportunity to submit evidence and witnesses, and to testify in her own behalf. Hearing Exhibit I, Department Counsel Memorandum, dated July 13, 2021. At the beginning of the hearing the Judge explained in detail the procedures that would be employed, and she gave Applicant a month afterward to submit additional evidence, although Applicant ultimately presented none. Tr. at 62; Decision at 2. Although Applicant may not be satisfied with the outcome of her case, any defects in her presentation cannot be attributed to failure by DOHA to provide her with appropriate notice and guidance. *See, e.g.*, ISCR Case No. 15-04472 at 3 (App. Bd. Feb. 9, 2017). Although *pro se* applicants are not held to the standard expected of attorneys, they are expected to take reasonable steps to preserve and exercise their rights. *See, e.g.*, ISCR Case No. 18-02689 at 2 (App. Bd. Jul. 26, 2019). We resolve this issue adversely to Applicant.

Applicant contends that the Judge "didn't take into account [all of] the delinquent accounts [that were] paid off before the hearing as well as the accounts that were brought to . . . current status." Appeal Brief at 1. However, the Judge's findings about the status of Applicant's SOR debts are consistent with the record that was before her, and she specifically found that Applicant has no additional debts. The Judge's material findings of security concern are supported by

substantial evidence or constitute reasonable inferences that could be drawn from the evidence. *See, e.g.* ISCR Case No. 18-02581 at 3 (App. Bd. Jan. 14, 2020). The balance of Applicant’s brief consists in large measure of a disagreement with the Judge’s weighing of the evidence. However, Applicant’s arguments are not sufficient to demonstrate that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 18-02872 at 3 (App. Bd. Jan. 15, 2020). Moreover, Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *Id.*

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Chairperson, Appeal Board

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

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Member, Appeal Board