

KEYWORD: Guideline F

DIGEST: In his brief, Applicant does not challenge any of the Judge’s rulings or findings of fact. Instead, he contends the Judge misapplied the whole-person concept. In doing so, he cites his military service and performance as a defense contractor. He also discusses his financial problems and his efforts to resolve them. He argues that his financial problems amount to an isolated incident and do not reflect him as a whole person. His arguments, in essence, are a disagreement with the Judge’s weighing of the evidence. As we stated in the past, the presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. The Judge, as the trier of fact, has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. A party’s disagreement with the Judge’s weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 17-00795.a1

DATE: 04/05/2019

DATE: April 5, 2019

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In Re:)	
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-----)	ISCR Case No. 17-00795
)	
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 April 13, 2017, 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 February 8, 2019, after the hearing, Administrative Judge Stephanie C. Hess denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant received a Chapter 13 bankruptcy discharge in 2006 and had four delinquent debts totaling about \$36,800. The Judge found for Applicant on the bankruptcy allegation and against him on the delinquent debts. The Judge concluded that, while Applicant’s financial problems were due to several events largely beyond his control, he failed to act responsibly in resolving his debts.

Applicant’s appeal brief includes information not contained in the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29.

In his brief, Applicant does not challenge any of the Judge’s rulings or findings of fact. Instead, he contends the Judge misapplied the whole-person concept. In doing so, he cites his military service and performance as a defense contractor. He also discusses his financial problems and his efforts to resolve them. He argues that his financial problems amount to an isolated incident and do not reflect him as a whole person. His arguments, in essence, are a disagreement with the Judge’s weighing of the evidence. As we stated in the past, the presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. The Judge, as the trier of fact, has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. A party’s disagreement with the Judge’s weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 15-00650 at 2 (App. Bd. Jun. 27, 2016).

Applicant has not established that the Judge committed any harmful error. 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: 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