

KEYWORD: Guideline F

DIGEST: Applicant’s delinquent debts are recent and ongoing. His unemployment was a condition beyond his control. He did not provide any proof of financial counseling or of voluntary payments towards his delinquent debts. His child support debt was satisfied through an involuntary tax withholding. Although he has a plan to resolve his delinquent debts, he has not implemented it. He did not provide evidence of contacting creditors to make payment arrangements. He has not met his burden of persuasion. Adverse decision affirmed.

CASENO: 18-00984.a1

DATE: 03/12/2019

DATE: March 12, 2019

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In Re:	)	
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	)	
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 15, 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 December 20, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello 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 adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge’s Findings of Fact and Analysis**

Applicant, who is 35 years old, served in the military, and received an honorable discharge. He has earned an associate’s degree. He has been married twice and has five children. He was employed from September 2015 to May 2017, when he was laid off. He remained unemployed until he began working at a car dealership on a commission basis in August 2017. He was also self-employed as a financial advisor since May 2017. He attributes his financial problems to his recent unemployment.

Applicant has ten delinquent debts totaling about \$32,000. His admissions and a credit report establish the SOR allegations. He noted that his previously payments towards his debts showed he was financially responsible. However, upon being released from a management position, he was unable to make minimum payments towards his debts due to insufficient income. He only had \$73 a month for payments on his delinquent debts, but expected that amount to increase in the following years and that he would have them paid by early 2025. He did not provide evidence that he has made any payments. The IRS applied a portion of his tax refund to a delinquent child support debt. He and his wife do not recognize one debt; however, he did not provide evidence of any action to dispute it.

Applicant’s delinquent debts are recent and ongoing. His unemployment was a condition beyond his control. He did not provide any proof of financial counseling or of voluntary payments towards his delinquent debts. His child support debt was satisfied though an involuntary tax withholding. Although he has a plan to resolve his delinquent debts, he has not implemented it. He did not provide evidence of contacting creditors to make payment arrangements. He has not met his burden of persuasion.

### **Discussion**

Applicant’s appeal brief contains documents and assertions that are not included in the record. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant also contends that the Judge did not properly weigh and consider all of the record evidence. For example, he highlights his job loss, his prior history of financial responsibility, and his plan for repayment of the debts. The Judge, however, made findings about those matters and discussed them in either her mitigation or whole-person analysis. Applicant’s arguments are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-02488 at 3-4 (App. Bd. Aug. 30, 2018).

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, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information 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