

KEYWORD: Guideline F

DIGEST: Applicant acknowledges that he made some poor decisions that he strongly regrets. He also contends that the Judge erred in her whole-person analysis and argues that he has demonstrated personal reliability and professional accountability over the past eight years while working on a project. His arguments, however, are neither enough to rebut the presumption that the Judge considered all of the evidence in the record nor sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASE NO: 18-02728

DATE: 11/12/2019

DATE: November 12, 2019

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In Re:)	
)	
-----)	ISCR Case No. 18-02728
)	
)	
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 December 3, 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 hearing. On August 23, 2019, after the hearing, Administrative Judge Pamela C. Benson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The Judge summarized the case as follows:

Applicant was a tax protester for many years, despite the Internal Revenue Service (IRS) sending him notices about his legal requirements for several years. He chose to ignore those notices and accumulated a Federal tax debt of \$250,418. He was also put on notice that he had several delinquent accounts when he had his background interview in 2017, and after the Statement of Reasons (SOR) was issued in late 2018. Applicant failed to act responsibly to resolve his delinquent debts, or to establish a payment agreement with the IRS. His debt, including extensive past-due Federal income tax debt, remains ongoing and unresolved. Guideline F (financial considerations) security concerns are not mitigated. Access to classified information is denied. [Decision at 1.]

In his appeal brief, Applicant states he was told that he will never have access to classified information or access to restricted areas without an escort. However, these are not relevant matters for our consideration. Our jurisdiction is limited to those issues set forth in Directive ¶ E3.1.32. We have no authority to consider the extent to which an applicant may or may not actually have access to classified information in the course of his or her job. *See, e.g.*, ISCR Case No. 14-00508 at 2-3 (App. Bd. Jan. 23, 2015).

Applicant acknowledges that he made some poor decisions that he strongly regrets. He also contends that the Judge erred in her whole-person analysis and argues that he has demonstrated personal reliability and professional accountability over the past eight years while working on a project. His arguments, however, are neither enough to rebut the presumption that the Judge considered all of the evidence in the record nor sufficient 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. 14-01284 at 3 (App. Bd. Apr. 6, 2015).

Applicant has failed to establish 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 E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

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