

KEYWORD: Guideline F

DIGEST: Applicant contends that the Judge made a legal error in denying his security clearance and argues that he previously submitted documents showing the actions he had taken to resolve the alleged delinquent debts. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. From our review of the record, the Judge’s material findings and conclusions of a security concern are based on substantial evidence or constitute reasonable inference that could be drawn from the evidence. Moreover, even if debts have been or are being paid, removed, or otherwise resolved, a Judge may still consider the underlying circumstances of an applicant’s financial difficulties in evaluating whether he has demonstrated good judgment and reliability. Adverse decision affirmed.

CASENO: 18-02589.a1

DATE: 11/07/2019

DATE: November 7, 2019

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In Re:)	
)	
-----)	ISCR Case No. 18-02589
)	
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 January 7, 2019, 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 August 14, 2019, after considering the record, Administrative Judge Noreen A. Lynch 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 erred in her analysis of the evidence. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant is a 40-year-old employee of a Federal contractor. He is married with two adult children. The SOR alleged that Applicant had five delinquent debts that included a student loan placed for collection for about \$26,200 and a state tax lien for about \$3,400. He denied the SOR allegations.

Applicant stated he had a \$5 payment plan in place for the student loan. He submitted a 2019 billing statement that showed he was behind \$5 on the payment plan and the account's balance was over \$31,900. During a background interview, he stated he did not take the student loan seriously. Applicant claimed he paid the state tax lien in 2018, but failed to submit evidence to support this claim. In his response to interrogatories, he provided proof of two \$68 tax lien payments in 2018.

A medical debt for about \$240 is reflected on Applicant's 2018 credit report but not on his 2019 credit report. The removal of the medical debt from his credit report does not establish the debt was resolved. Applicant claims he disputed a collection account for about \$1,050 with the three credit reporting bureaus and it is no longer listed on his credit reports. He claims a collection account for about \$220 was removed from his credit report, but did not submit any documentation showing a dispute.

In his security clearance application, Applicant disclosed that he owed about \$22,000 in Federal and state taxes and was making monthly payments. In his background interview, he stated he had delinquent taxes for 2008 through 2010. He provided tax transcripts that did not show any recent payments. He satisfied a Federal tax lien for about \$14,300 in 2016. He did not submit a response to Department Counsel's File of Relevant Material (FORM). He did not provide information about either receiving financial counseling or his monthly income and expenditures.

The Judge's Analysis

Applicant's credit reports and other documents establish the alleged debts. He blamed his debts on a divorce, but did not provide the date of the divorce or establish a sufficient connection between that event and his debts. He has not shown that he is financially stable or that his financial situation is under control. He has been steadily employed since 2013, but did not take action on the debts until 2018. None of the mitigating conditions apply. In her whole-person analysis, the Judge noted that the payments on the student loan were recently established and he failed to establish that other debts were not his responsibility.

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 contends that the Judge made a legal error in denying his security clearance and argues that he previously submitted documents showing the actions he had taken to resolve the alleged delinquent debts. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 15-02854 at 2 (App. Bd. Nov. 22, 2016). From our review of the record, the Judge's material findings and conclusions of a security concern are based on substantial evidence or constitute reasonable inference that could be drawn from the evidence. *See, e.g.*, ISCR Case No. 17-02225 at 2-3 (App. Bd. Jun. 25, 2019). Moreover, even if debts have been or are being paid, removed, or otherwise resolved, a Judge may still consider the underlying circumstances of an applicant's financial difficulties in evaluating whether he has demonstrated good judgment and reliability. *See, e.g.*, ISCR Case No. 17-00192 at 2 (App. Bd. Sep. 21, 2018). Applicant has failed to establish that the Judge committed any harmful error in her decision.

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