

KEYWORD: Guideline F

DIGEST: Applicant explains the reasons for her financial problems and highlights the actions she has taken to resolve them. She also contends she submitted agreements with various creditors. Her 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. The Judge's findings and conclusions that Applicant did not submit sufficient evidence to mitigate the alleged security concerns are sustainable. As the Board has previously stated, it is reasonable for the Judge to expect applicants to present documentation showing that debts have been resolved or are being resolved. Adverse decision affirmed.

CASENO: 19-00212.a1

DATE: 10/17/2019

DATE: October 17, 2019

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In Re:))
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-----) ISCR Case No. 19-00212
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))
Applicant for Security Clearance))
_____))

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 13, 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 July 23, 2019, after considering the record, Administrative Judge Robert Robinson Gales 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 a finding of fact and 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

The SOR alleged that Applicant had 12 delinquent debts totaling about \$40,700. In her response to the SOR, Applicant admitted all of the allegations with comments. She was unemployed from late 2009 to mid 2012. Starting in 2016, she provided support for an unspecified period to her adult son and his children after he suffered medical problems. In 2017, she sought the assistance of a credit counseling service until she became unhappy with their services. She later retained a law firm that specializes in credit repair. “Although Applicant contends that she and several of her creditors entered into settlement agreements or repayment agreements; or that she has been making agreed payments to some creditors; or that she has actually paid off several of the accounts, with one exception referring to a \$50 payment in February 2019, Applicant failed to submit any documents, including receipts, cancelled checks, or bank account transactions; to support her contentions that any accounts have been settled, paid off, or otherwise resolved; that any agreed settlements have actually proceeded to resolution; that any payments have actually been made to any creditors; or that the law firm has taken any action to resolve any of the accounts.” Decision at 3-4.

Because Applicant has failed to submit sufficient documentation that reflects her delinquent accounts have been or are in the process of being resolved, questions and doubts remain as to her security clearance eligibility. She failed to mitigate the security concerns arising from her financial problems.

Discussion

Applicant challenges the Judge’s findings regarding her educational achievements. When a Judge’s findings are challenged, we examine them to see if they are supported by substantial evidence, *i.e.*, “such relevant evidence as a reasonable mind might accept as adequate to support a

conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. *See, e.g.*, ISCR Case No. 16-01329 at 2 (App. Bd. Apr. 11, 2018). In this case, the Judge found “Applicant completed three years of high school, she did not complete her education, and she did not receive a diploma.” Decision at 2. In her security clearance application (SCA), Applicant answered “No” to questions that asked whether she attended any schools in the last 10 years and whether she received a degree or diploma more than 10 years ago. File of Relevant Material (FORM) Item 5. Her background interview also reflects that she attended high school for three years. FORM Item 8. It appears that Judge reasonably concluded the Applicant did not complete high school based on the information in her SCA and background interview. On appeal, Applicant states that she received a high school diploma and lists her other educational achievements that are not reflected in the record. Information that was not previously submitted to the Judge for consideration constitutes new evidence that the Appeal Board cannot consider. Directive ¶ E3.1.29. From our review, we conclude the Judge’s findings regarding Applicant’s educational achievement are based on substantial evidence in the record.

In her appeal brief, Applicant explains the reasons for her financial problems and highlights the actions she has taken to resolve them. She also contends she submitted agreements with various creditors. Her 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. 15-01717 at 4 (App. Bd. Jul. 3, 2017). The Judge’s findings and conclusions that Applicant did not submit sufficient evidence to mitigate the alleged security concerns are sustainable. As the Board has previously stated, it is reasonable for the Judge to expect applicants to present documentation showing that debts have been resolved or are being resolved. *See, e.g.*, ISCR Case No. 17-00893 at 3 (App. Bd. May 9, 2019). In this regard, the concept of a “‘meaningful track record’ [of debt resolution] necessarily includes evidence of actual debt reduction through payment of debts.” *See, e.g.*, ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007).

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

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