

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant cites to various pieces of record evidence which, he contends, the Judge did not consider or that he mis-weighed, including his period of homelessness, his unemployment, his care for his father, his tentative payment plan, etc. The Judge made findings about the things that Applicant has mentioned and explicitly addressed at least some of them in his Analysis. A Judge is not expected to address every piece of evidence in the record, which would be a virtual impossibility. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record or to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision is affirmed.

CASE NO: 19-01560.a1

DATE: 08/03/2020

DATE: August 3, 2020

In Re:)	
)	
-----)	ISCR Case No. 19-01560
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Joseph D. Jordan, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 20, 2019, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On April 29, 2020, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gregg A. Cervi 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. The Judge’s favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm.

Applicant owes about \$64,000 in delinquent debts. He attributed his financial problems to several things: a two-year period in which his wife was stationed overseas; a year and a half of unemployment while caring for his ill father; and to medical treatment. In his security clearance application, Applicant disclosed unemployment during all of 2017 as well, although he later stated that he had been self-employed during that time. Applicant disclosed that he was homeless for about three months in 2017. He has a tentative payment plan but is waiting on the result of his clearance adjudication before implementing it. Applicant submitted information from a credit management company and an enrollment letter from a financial education company. His financial statement shows a negative balance of nearly \$1,300. In January 2020 his salary was increased to \$80,000, and he receives income from two investment properties. Applicant served in the military, deploying abroad in support of U.S. military objectives. His employer describes him as trustworthy, honest, and loyal.

The Judge characterized Applicant’s presentation as promises to pay off debts in the future, which he found insufficient to mitigate the concerns addressed in the SOR. He stated that Applicant had not demonstrated reasonable efforts to pay his debts and that there is insufficient evidence that his financial problems will be resolved in the near future. The Judge cited to Applicant’s military service, his employment history, his delinquent debts, and the circumstances underlying them. He ultimately concluded that Applicant had not met his burden of persuasion to mitigation.

Applicant cites to various pieces of record evidence which, he contends, the Judge did not consider or that he mis-weighed, including his period of homelessness, his unemployment, his care for his father, his tentative payment plan, etc. The Judge made findings about the things that Applicant has mentioned and explicitly addressed at least some of them in his Analysis. A Judge is not expected to address every piece of evidence in the record, which would be a virtual impossibility. *See, e.g.*, ISCR Case No. 18-02872 at 3 (App. Bd. Jan. 15, 2020). Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in

the record or to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.*

The record supports a conclusion that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, “including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s adverse 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 Y. Ra’anan

Michael Y. 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