

KEYWORD: Guideline F

DIGEST: Applicant cites to information contained in her Answer to the SOR and in her Response to the File of Relevant Material. She notes, for example, evidence that she had acquired some of her debts in an effort to assist others, that she believed that an auto debt had been resolved through foreclosure, that one of her debts was being resolved through garnishment, etc. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Adverse decision is affirmed.

CASE NO: 19-00990.a1

DATE: 03/17/2020

DATE: March 17, 2020

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In Re:)	
-----)	ISCR Case No. 19-00990
)	
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 June 14, 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 December 17, 2019, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gina L. Marine denied Applicant’s request for a security clearance. Applicant appealed in accordance with 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

Applicant’s SOR alleged eleven delinquent debts, totaling over \$40,000. Applicant attributed her financial problems to periods of unemployment, as well as to her having acquired debts on behalf of others who did not follow through on their promises to pay. Applicant claimed to be making payments on some of her debts, and she disputed others. However, she did not provide corroborating evidence of actual payments made or of the bases for her disputes. One of her debts, an automobile account, has been the subject of a garnishment action.

Applicant enlisted the services of a company to assist her in getting items removed from her credit report. However, she did not provide evidence as to how much of her \$88 monthly fee went to satisfying or challenging her debts. In August 2019, Applicant reported a monthly remainder of nearly \$1,300, although she stated that unidentified expenses rendered her salary insufficient to address her ongoing debts. Applicant’s plan for addressing her debts includes making unspecified payments to creditors, as well as maintaining full employment and obtaining a part-time job. This plan is on hold, however, because her creditors have asked for good-faith deposits in amounts larger than she can afford.

Applicant acknowledges that she has exercised poor judgment with regard to her finances. She states that she has learned her lesson about acquiring debt on behalf of others, and she avers that she is now more mature and understands the importance of a good credit history to maintaining a clearance and holding a job.

The Judge’s Analysis

The Judge stated that the company Applicant hired has not demonstrated any success in resolving her financial problems. Even those debts removed from her credit report were not demonstrated to have been baseless. She stated that Applicant has a substantial amount of lingering debt and that Applicant has not demonstrated responsible action in regard to her financial problems. The Judge concluded that Applicant has not fully resolved any of her SOR allegations, nor has she demonstrated a meaningful track record of voluntary payment to her creditors.

Discussion

Applicant's appeal brief includes assertions and attachments from outside the record, including documents that post-date the Judge's decision. We cannot consider new evidence on appeal. Directive ¶ E3.1.29.

Applicant cites to information contained in her Answer to the SOR and in her Response to the File of Relevant Material. She notes, for example, evidence that she had acquired some of her debts in an effort to assist others, that she believed that an auto debt had been resolved through foreclosure, that one of her debts was being resolved through garnishment, etc. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 18-02872 at 3 (App. Bd. Jan. 15, 2020). To the extent that she is challenging the Judge's weighing of the evidence, we conclude that she has not demonstrated that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 18-02581 at 4 (App. Bd. Jan. 14, 2020).

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