

KEYWORD: Guideline F

DIGEST: Applicant’s arguments amounts to a disagreement with the Judge’s weighing of the evidence. For example, Applicant takes exception to the Judge’s conclusion that he took a personal trip outside of the United States while he had delinquent debts. His arguments, however, are not sufficient 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: 19-01005.a1

DATE: 03/31/2020

DATE: March 31, 2020

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In Re:	)	
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	)	
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 May 31, 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 January 21, 2020, after considering the record, Defense Office of Hearings and Appeals (DOHA) 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’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following discussion, we affirm the Judge’s decision.

### **The Judge’s Findings of Fact and Analysis**

Applicant is a 35-year-old employee of a defense contractor. He served in the military, including in Afghanistan, and received an honorable discharge. He has earned an associate’s degree. He is single and has a child. He was granted a security clearance in 2008. He attributed his financial problems to periods of unemployment, mistakes in the past, and having to make child support payments.

The SOR alleges that Applicant has four delinquent debts (two vehicle repossessions, a student loan, and a credit card account) totaling over \$25,000. In responding to the SOR, Applicant admitted the two delinquent vehicle loans and stated he was working with the creditors on repayment options. He denied the student loan, indicating he initially thought it was resolved through tax refund withholdings, later learned it had an \$800 balance, and stated he would work with the creditor to pay it. He denied the credit card debt, claiming he paid a negotiated settlement amount, and furnishing a confirmation number for that payment. He provided no documentation confirming payments or other efforts to resolve the delinquent debts. In the File of Relevant Material (FORM), Department Counsel highlighted the lack of documentation supporting Applicant’s contentions. Applicant did not respond to the FORM. Despite his delinquent debts, Applicant took a personal trip outside the United States in 2015. “Applicant’s actions, or inaction, under the circumstances cast doubt on his current reliability, trustworthiness, and good judgment.” Decision at 8.

### **Discussion**

Applicant’s appeal brief contains new evidence, *i.e.*, assertions and an email string of messages that are not contained in the record. His arguments that he started to resolve his delinquent debts before he was placed on notice that his security clearance eligibility was in jeopardy and that the Judge erred in finding or concluding that he did not receive financial counseling or did not have a budget are primarily based on new evidence that we cannot consider. Directive ¶ E3.1.29.

The balance of Applicant’s arguments amounts to a disagreement with the Judge’s weighing

of the evidence. For example, Applicant takes exception to the Judge's conclusion that he took a personal trip outside of the United States while he had delinquent debts. His arguments, however, are not 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. 17-00257 at 3 (App. Bd. Dec. 7, 2017).

Applicant's appeal brief fails to establish that the Judge committed any harmful error or that he should be granted a conditional security clearance under Directive, Encl. 2, App. C. 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