

KEYWORD: Guideline F; Guideline G

DIGEST: Applicant’s Appeal Brief contends the amount of his alleged IRS indebtedness was incorrect. However, in responding to DOHA interrogatories, he submitted an IRS tax transcript that reflects he owed the alleged amount as of March 2019. He also contends that the Judge’s decision will have a adverse impact on him, his employer, and his clients, but such an impact is not a relevant consideration in evaluating clearance eligibility. Adverse decision is affirmed

CASE NO: 19-00075.a1

DATE: 05/13/2020

DATE: May 13, 2020

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 19-00075
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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 August 16, 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 G (Alcohol Consumption) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On January 24, 2020, after considering the record, Administrative Judge Matthew E. Malone denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30. The Judge’s favorable findings regarding the Guideline G allegations and one Guideline F allegation have not been raised as an issue on appeal.

The Judge found against Applicant on allegations asserting that he failed to file his Federal income tax return for 2016 as required, failed to file his state income tax returns for 2016 and 2017 as required, and was indebted to the IRS in the approximate amount of \$3,516.54 for 2015. In responding to the SOR, Applicant admitted those allegations.

Applicant’s Appeal Brief and Notice of Appeal contain documents that are not included in the record. Some of those documents post-date the Judge’s decision. He also makes assertions in his Appeal Brief that he had not previously presented to the Judge for consideration. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant’s Appeal Brief contends the amount of his alleged IRS indebtedness was incorrect. However, in responding to DOHA interrogatories, he submitted an IRS tax transcript that reflects he owed the alleged amount as of March 2019. He also contends that the Judge’s decision will have a adverse impact on him, his employer, and his clients, but such an impact is not a relevant consideration in evaluating clearance eligibility. *See, e.g.*, ISCR Case No. 11-10758 at 2 (App. Bd. May 21, 2013).

Applicant has failed to establish 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