

KEYWORD: Guideline F

DIGEST: Applicant argues that the Judge “did not have all the facts.” Appeal Brief at 1. However, it was Applicant’s task to provide evidence in mitigation. Directive ¶ E3.1.15. If Applicant believed that the record required more evidence, it fell to him to supply it. Applicant provides information about the circumstances of his financial problems and his efforts to address them. However, he has not rebutted the presumption that the Judge considered all of the evidence, nor has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision is affirmed

CASE NO: 19-01206.a1

DATE: 05/13/2020

DATE: May 13, 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 24, 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 31, 2020, 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 pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant failed to file his Federal income tax returns for 2014 and 2016 and that he had three delinquent debts that totaled a little over \$3,200. The Judge found in Applicant’s favor regarding one of the delinquent debts but entered adverse findings for the remaining allegations. She commented that the debts in and of themselves were of limited security significance, given their relatively small total amount, and she noted Applicant’s claim that he had filed his returns by the close of the record. However, she stated that Applicant did not corroborate his claim to have filed his taxes, nor had he presented a sufficient explanation for his tax delinquencies. She concluded that Applicant’s tax problems and his lack of responsible action regarding his debts raised security concerns that he had not mitigated.

Applicant’s brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. He argues that the Judge “did not have all the facts.” Appeal Brief at 1. However, it was Applicant’s task to provide evidence in mitigation. Directive ¶ E3.1.15. If he believed that the record required more evidence, it fell to him to supply it. Applicant provides information about the circumstances of his financial problems and his efforts to address them. However, he has not rebutted the presumption that the Judge considered all of the evidence, nor has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 18-02872 at 3 (App. Bd. Jan. 15, 2020). Applicant contends that without a clearance he will likely lose his job. The Directive does not permit us to consider the impact of an unfavorable decision. *See, e.g.*, ISCR Case No. 17-03024 at 3 (App. Bd. Jan. 9, 2020).

Applicant has not demonstrated that the Judge committed harmful error. 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