

KEYWORD: Guideline F

DIGEST: Although we give due consideration to Applicant’s brief, in the past we have held it reasonable for applicants to corroborate their claims to have sent to the Judge evidence that did not make it into the record. Applicant has not provided a copy of any such request, nor has he submitted a mailing receipt, email transmission document, etc. Given the record that is before us, we conclude that Applicant has not made a prima facie showing that he submitted a request for an extension. Applicant has otherwise not raised an issue of harmful error by the Judge. Our authority to review a case is limited to those in which the appealing party alleges that the Judge committed harmful error. Adverse decision is affirmed.

CASE NO: 19-01567.a1

DATE: 05/06/2020

DATE: May 6, 2020

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In Re:	)	
-----	)	ISCR Case No. 19-01567
	)	
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 July 17, 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 30, 2020, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge LeRoy F. Foreman 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 had filed for Chapter 13 bankruptcy protection four times between April 2014 and January 2017. The petitions were dismissed each time. The SOR also alleged eight delinquent debts. The Judge found in Applicant’s favor regarding five of the debts and entered adverse findings for the remaining allegations.

Applicant’s brief raises an issue of due process. In presenting his argument, Applicant makes assertions from outside the record. Normally, we are not permitted to consider new evidence. Directive ¶ E3.1.29. However, we will consider new evidence insofar as it pertains to threshold issues such as jurisdiction or due process. *See, e.g.*, ISCR Case No. 18-01764 at 1-2 (App. Bd. Jun. 4, 2019).

Applicant contends that he requested additional time in which to respond to the File of Relevant Material (FORM). He states that he advised the Judge that he needed extra time in which to obtain documentary evidence because he was deployed overseas. There is nothing in the file to corroborate Applicant’s assertion. The record shows that he received the FORM on October 23, 2019. However, it contains no evidence of any response by Applicant. In his Reply Brief, Counsel states that he is aware of no such request for extension, and the Decision itself states simply that Applicant did not respond to the FORM.

Although we give due consideration to Applicant’s brief, in the past we have held it reasonable for applicants to corroborate their claims to have sent to the Judge evidence that did not make it into the record. *See, e.g.*, ISCR Case No. 17-02109 at 2 (App. Bd. Mar. 6, 2019). Applicant has not provided a copy of any such request, nor has he submitted a mailing receipt, email transmission document, etc. Given the record that is before us, we conclude that Applicant has not made a *prima facie* showing that he submitted a request for an extension. Applicant has otherwise not raised an issue of harmful error by the Judge. Our authority to review a case is limited to those in which the appealing party alleges that the Judge committed harmful error. Directive ¶ E3.1.32. Accordingly, we find no reason to remand the case to the Judge or otherwise grant relief.

**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