

KEYWORD: Guideline F

DIGEST: After considering Applicant’s brief in light of the entirety of the record, we conclude that Applicant has not rebutted the presumption that the Judge considered all of the evidence, nor has she demonstrated that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision is affirmed

CASE NO: 19-02451.a1

DATE: 05/20/2020

DATE: May 20, 2020

)	
In Re:)	
-----)	ISCR Case No. 19-02451
)	
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 August 28, 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 March 4, 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, we affirm.

The Judge’s Findings of Fact and Analysis

Applicant’s SOR alleged over \$29,000 in delinquent debt, for such things as credit cards, cable services, a loan, a charge account, and other unspecified obligations. Applicant attributed her problems to several periods of unemployment, some of them voluntary, others not; to expenses incurred while administering the estate of her deceased brother; to her taking advantage of increased limits on her credit cards; and to her providing financial assistance for family members. The Judge found that Applicant’s debts have been ongoing since late 2016 and that she did not corroborate her claims that she had been trying to resolve them. The Judge also noted her ex-husband had child support arrearages as high as \$200,000. Applicant filed for bankruptcy protection after her receipt of the SOR. In her clearance interview, she initially claimed that all of her accounts had been paid in full. When the investigator confronted Applicant with her debts, however, she stated that she was not aware of them, though eventually admitting that she had stopped paying them after the death of her brother. In the analysis portion of the Decision, the Judge cited Applicant’s many instances of leaving jobs voluntarily, the absence of evidence of debt resolution, the timing of Applicant’s bankruptcy petition, her having spent funds on family members rather than on paying her debts; and her having taken Caribbean cruises rather than satisfying her financial obligations. He concluded that she had not met her burden of persuasion as to mitigation.

Discussion

In her appeal brief, Applicant contends that she has tried to resolve her debts and that the Judge’s decision does not give due attention to her positive character traits. In presenting her arguments, she includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. We note that Applicant’s response to the File of Relevant Material (FORM) includes a document from one of the creditors cited in the SOR, advising that an automobile lien had been released. Applicant FORM Response, Exhibit 8. This document does not appear to relate to any of the SOR allegations regarding this creditor, however. Item 5, Credit Report dated April 17, 2019, at 8 at top, 5 at bottom of page. After considering Applicant’s brief in light of the entirety of the record, we conclude that Applicant has not rebutted the presumption that the Judge considered all of the evidence, nor has she demonstrated that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 18-02872 at 3 (App. Bd. Jan. 15, 2020).

Applicant has cited to no harmful error in the Judge’s findings or analysis. 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 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

