

KEYWORD: Guideline F

DIGEST: Applicant contends that he mitigated the Guideline F security concerns. In doing so, he highlights his work accomplishments and his family’s contributions to national security. He notes that he was granted an interim clearance because there was nothing in his background to show that he was at risk for blackmail or coercion or that his financial problems are unlikely to recur. His arguments are not enough to show that the Judge’s analysis or conclusions were arbitrary, capricious, or contrary to law. He notes that an adverse decision will have an negative impact on his family, but such a matter is not a relevant consideration in assessing an individual’s security clearance eligibility. Adverse decision affirmed.

CASE NO: 19-04076.a1

DATE: 10/05/2020

DATE: October 5, 2020

)	
In Re:)	
-----)	ISCR Case No. 19-04076
)	
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 March 6, 2020, 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 July 17, 2020, Administrative Judge Darlene D. Lokey Anderson denied Applicant’s request for a security clearance after considering the record evidence. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant failed to file, as required, his Federal and state income tax returns for 2007-2017 and that he had a delinquent debt of about \$114. The Judge found against Applicant on the tax return filing deficiencies and in favor of him on the alleged debt. In her decision, the Judge found that, during a former marriage from 2006 to 2014, Applicant’s ex-wife filed income tax returns each year in which she claimed only herself and their children. For an eleven-year period during and after his former marriage, Applicant did not file tax returns and allowed his ex-wife to continue to file the tax returns in that manner even though he knew such action would cause him future tax problems. Applicant filed his Federal and state income tax returns for 2014-2018 in November 2019. He contends that he was advised by tax consultants that he did not have to file Federal and state tax returns for 2007-2013 but submitted no documentation corroborating that assertion. The Judge concluded that Applicant’s financial problems showed a lack of good judgment, reliability, and trustworthiness.

Applicant’s appeal brief contains documents that were not submitted to the Judge for consideration. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

In his brief, Applicant does not challenge any of the Judge’s findings or conclusions regarding the alleged tax filing deficiencies. He does argue that he provided documentation showing he has a tax payment plan with the state. His tax indebtedness, however, was neither alleged in the SOR nor a basis for denying him security clearance eligibility.

Applicant contends that he mitigated the Guideline F security concerns. In doing so, he highlights his work accomplishments and his family’s contributions to national security. He notes that he was granted an interim clearance because there was nothing in his background to show that he was at risk for blackmail or coercion or that his financial problems are unlikely to recur. His arguments are not enough to show that the Judge’s analysis or conclusions were arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3. He notes that an adverse decision will have a negative impact on his family, but such a matter is not a relevant consideration in assessing an individual’s security clearance eligibility. *See, e.g.*, ISCR Case No. 19-01098 at 1-2 (App. Bd. May 11, 2020).

Applicant has failed to establish the Judge committed any harmful errors. 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