

KEYWORD: Guideline F

DIGEST: Applicant contends the Judge erred in making findings of fact about three of the alleged debts. We examine challenged findings to determine whether they are supported by substantial evidence, i.e., “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. First, Applicant asserts the Judge erred in finding the initial payment on an installment plan for a credit card debt of about \$2,880 was due in March 2021. Applicant correctly points out the plan provided the first payment was due a month earlier. See AE B. This error, however, was harmless because it did not likely affect the outcome of the case. Adverse Decision Affirmed.

CASE NO: 19-03757.a1

DATE: 08/18/2021

DATE: August 18, 2021

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In Re:)	
)	
-----)	ISCR Case No. 19-03757
)	
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.¹ On May 26, 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 hearing. On May 20, 2021, after the hearing, Administrative Judge Noreen A. Lynch denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge erred in the findings of fact and whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. For the reasons stated below, we affirm the Judge’s decision.

The Judge’s Findings of Fact and Analysis

The SOR alleged that Applicant had seven delinquent debts totaling about \$27,000. In responding to the SOR, she admitted each of the allegations with explanations. In the analysis, the Judge concluded:

Applicant’s delinquent debts are the result of her losing employment in 2014. However, she has been gainfully employed since June 2017. She did not take meaningful steps to resolve the delinquent debts until 2021. She had some earlier payments plans in place, but they lapsed and she did not resume them. In recent months she has been proactive with the security clearance issue before her. This late compliance, all of which post-dates the SF-86 and her interview does not constitute good faith as contemplated by Appeal Board precedent. It does not mitigate the security concerns raised by her conduct. It appears the primary catalyst to address her delinquencies is the desire for a security clearance. She had the ability to pay her debts but chose not to. Applicant’s failure to act responsibly with regard to her financial obligations preclude finding that she has good judgment. AG ¶¶ 20(a)-20(d) are not established. Applicant did not meet her burden to mitigate the financial concerns set out in the SOR. For these reasons, I find SOR ¶¶ 1. through 1.g against Applicant. [Decision at 5.]

Discussion

In her appeal brief, Applicant contends the Judge erred in making findings of fact about three of the alleged debts. We examine challenged findings to determine whether they are supported by substantial evidence, *i.e.*, “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. First, Applicant asserts the Judge erred in finding the initial payment on an installment plan for a

¹ Applicant’s last name in the caption differs from that in the SOR. After issuance of the SOR, a court restored Applicant’s last name to her maiden name. *See* Applicant’s Exhibit (AE) A.

credit card debt of about \$2,880 was due in March 2021. Applicant correctly points out the plan provided the first payment was due a month earlier. *See* AE B. This error, however, was harmless because it did not likely affect the outcome of the case. *See, e.g.*, ISCR Case No. 19-01220 at 3 (App. Bd. Jun. 1, 2020). Applicant also contends the Judge erred in finding “no proof of [that] payment was provided.” Appeal Brief at 1. The Judge actually found that Applicant “provided no payment receipts” for that debt, which is an accurate statement. To the extent that Applicant is claiming the Judge erred by failing to give her credit for making that payment because her credit report shows the balance of that debt was reduced by the amount of the first scheduled payment between February and March 2021 (AE E at 2-3), this purported error also did not likely affect the outcome of case.

Applicant’s challenges regarding the other two debts, in essence, are a disagreement with the Judge’s weighing of the evidence rather than a dispute with specific factual findings. These challenges involve a debt for \$460 and another for \$65. Applicant is basically claiming she either resolved or disputed these debts and they were removed from her credit report. The Judge entered findings that Applicant made such claims. To the extent that Applicant is contending the Judge erred in finding against her on those debts, we do not find that contention persuasive. The Judge noted that Applicant provided no documentation to substantiate her assertions that she either resolved or disputed these debts. In this regard, the Appeal Board has previously stated that it is reasonable for a Judge to expect an applicant to present documentation corroborating actions taken to resolve debts. *See, e.g.*, ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 15, 2020). Additionally, Mitigating Condition 20(e) requires an applicant to provide “documented proof to substantiate the basis of the dispute[.]” Directive, Encl. 2, App. A ¶ 20(e). It also merits noting there is more than one plausible explanation for debts dropping off a credit report, such as the removal of debts due to the passage of time, and the absence of unsatisfied debts from an applicant’s credit report does not extenuate or mitigate an overall history of financial difficulties or constitute evidence of financial reform or rehabilitation. *See, e.g.*, ISCR Case No. 15-02957 at 3 (App. Bd. Feb. 17, 2017).

Applicant’s remaining arguments basically advocate for an alternative interpretation of the evidence and fail to demonstrate error. *See, e.g.*, ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020). None of her arguments are enough to rebut the presumption that the Judge considered all of the evidence in the record or sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.* Applicant’s brief also notes the impact that an unfavorable decision will have on her. The Directive, however, does not permit us to consider such consequences. *See, e.g.*, ISCR Case No. 19-02020 at 2 (App. Bd. Oct. 26, 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