

KEYWORD: Guideline F

DIGEST: Applicant’s appeal includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. In her brief she notes such things as her marital difficulties, her having paid off the smaller SOR debts, and her having worked for her employer for thirteen years. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record or to demonstrate that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse Decision Affirmed.

CASE NO: 20-03503.a1

DATE: 09/14/2021

DATE: September 14, 2021

In Re:)		
)		
-----)		ISCR Case No. 20-03503
)		
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 February 17, 2021, 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 June 29, 2021, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert Tuider 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 seven delinquent debts, the Judge finding against her on two of them. One of these was a charged-off credit card for nearly \$13,500 and the other a charged-off automobile loan for nearly \$9,000. Neither of these debts have been resolved. Applicant attributed her financial problems to a marital separation that left her with debts and with responsibility for a child. Applicant did not begin making payments on any of her SOR accounts until after DOHA issued the SOR.

In concluding that Applicant had not mitigated concerns arising from the two debts described above, the Judge stated that she had been employed for the majority of her adult life and that since her divorce in 2015 she has remarried and purchased a home. He stated that she had not presented evidence that her long-standing debts are being addressed or that she has received financial counseling. Accordingly, he concluded that Applicant had not met her burden of persuasion as to mitigation.

Discussion

Applicant’s appeal includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. In her brief she notes such things as her marital difficulties, her having paid off the smaller SOR debts, and her having worked for her employer for thirteen years. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record or to demonstrate 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). She states that her clearance allows her to continue working and maintain a steady income. The Directive does not permit us to consider the adverse impact of an unfavorable decision. *See, e.g.*, ISCR Case No. 17-03024 at 3 (App. Bd. Jan. 9, 2020).

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