

The Department of Defense (DoD) declined to grant Applicant a security clearance. On September 11, 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 DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On August 31, 2021, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Arthur E. Marshall, Jr., denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR contains six Guideline F allegations. Applicant admitted all of the allegations in responding the SOR. The Judge found against him on four of them. These alleged that Applicant failed to file, as required, his Federal and state income tax returns for 2013-2018; that he had a delinquent Federal tax debt of over \$22,000 for those years; and that he was delinquent on two other debts totaling over \$17,000.

In his appeal brief, Applicant appears to take issue with some of the Judge’s findings of fact. For example, the Judge found Applicant made one payment towards a charged-off account (SOR ¶ 1.c), while Applicant states he made two payments. It appears one purported payment is evidenced by a handwritten annotation on Applicant’s Exhibit F. He also claims that, contrary to the Judge’s finding, he provided a document showing he filed his 2017 Federal income tax return before the record closed. An IRS document is attached to his SOR Answer that addresses tax years 2014, 2016, 2017, 2018, and 2019. This documents notes the IRS had not received Applicant’s Federal tax returns for 2015 and 2016; which can be reasonably interpreted to mean the IRS did receive his 2017 tax return. Any error that may have occurred was harmless, however, because it does not undermine the Judge’s overall conclusion that Applicant had failed to mitigate the alleged security concerns. *See, e.g.*, ISCR Case No. 19-01220 at 3 (App. Bd. Jun. 1, 2020) (an error is harmless if it did not likely affect the outcome of the case).

In his appeal brief, Applicant highlights his efforts to resolve his financial problems. He argues the facts show that he is willing and able to satisfy his financial obligations. He also emphasizes, for example, that he experienced conditions beyond his control contributing to his financial problems and he has held a security clearance for over forty-five years without incident. None of his arguments, however, are sufficient to demonstrate the Judge reached conclusions that were arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3.

Applicant has failed to establish that the Judge committed any harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on the record. “The general standard is that a clearance may be granted only when ‘clearly consistent with 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 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