



DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
POST OFFICE BOX 3656
ARLINGTON, VIRGINIA 22203
(703) 696-4759

KEYWORD: Guideline F

DIGEST: Applicant has not challenged any of the Judge’s specific findings of fact. Rather, he contends the Judge erred in failing to comply with the provisions in Executive Order 10865 and the Directive by not considering all of the evidence, by mis-weighting the evidence, and by not properly applying the mitigating conditions and whole-person concept. In his arguments, he contends, for example, the alleged debts are neither recent nor indicative of a history of financial problems, highlights he has no other delinquent debts, and asserts he has acted in good-faith in attempting to resolve the alleged debts. None of Applicant’s arguments, however, are enough to rebut the presumption that the Judge considered all of the record evidence or to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse Decision is Affirmed.

CASE NO: 20-03772.a1

DATE: 11/03/2021

Date: November 3, 2021

In the matter of:)	
)	
)	
-----)	ISCR Case No. 20-03772
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Alan V. Edmunds, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 2, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis of 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 18, 2021, after the hearing, Defense Office of Hearings and Appeals (DOHA) 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 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 is in his thirties and has earned a master’s degree. A defense contractor is sponsoring him for a security clearance.

The SOR alleges that Applicant has a delinquent student loan in the amount of about \$73,900 and has two delinquent cable company debt of about \$2,800. In responding to the SOR, Applicant admitted both allegations. He attributed both debts to unemployment and temporary employment. He paid the cable bill in early 2021. He acknowledged that he was irresponsible in ignoring student loan bills. In 2018 or 2019, he made two payments to a loan forgiveness organization to negotiate a lower balance and payments but did not follow-up with that organization. He presented a July 2021 repayment agreement for the student loan account, claimed he made payments under the agreement, but did not provide documentary proof of payments.

Applicant has not acted responsibly in addressing the student loan. He has not established a track record of payments to mitigate the alleged security concerns.

Discussion

Applicant has not challenged any of the Judge’s specific findings of fact. Rather, he contends the Judge erred in failing to comply with the provisions in Executive Order 10865 and the Directive by not considering all of the evidence, by mis-weighting the evidence, and by not properly applying the mitigating conditions and whole-person concept. In his arguments, he contends, for example, the alleged debts are neither recent nor indicative of a history of financial problems, highlights he has no other delinquent debts, and asserts he has acted in good-faith in attempting to resolve the alleged debts. None of Applicant’s arguments, however, are enough to rebut the presumption that the Judge considered all of the record evidence or to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

Applicant has failed to establish that the Judge committed any harmful error or that he should be granted any relief on appeal. 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