



**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 E; F

DIGEST: Applicant acknowledges that she has been struggling financially over the past years, now realizes her mistakes, and is taking steps to rectify situation as quickly as possible. None of her arguments are sufficient to demonstrate that the Judge’s analysis or conclusions are arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3. She provided points of contact if the Board has any questions. The Board does not have authority to conduct an inquiry or investigation on behalf of a party. Adverse decision is affirmed.

CASENO: 20-01999.a1

DATE: 12/23/2021

Date: December 23, 2021

In the matter of:)
)
)
)
-----) ISCR Case No. 20-01999
)
)
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 October 30, 2020, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On August 10, 2021, after considering the record, Administrative Judge Juan J. Rivera 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 his analysis of the falsification and debt allegations. Consistent with the following, we affirm.

The Judge’s Findings of Fact and Analysis

Applicant is in her twenties and is employed by a Federal contractor. She has never been married and has no children. She has attended college but has not earned a degree.

The SOR alleged that Applicant had a consumer collection account, 12 delinquent medical accounts totaling about \$3,700, and five student loans in collection totaling over \$15,000. It also alleged that she falsified her 2019 security clearance application (SCA) by failing to disclose any of her financial delinquencies. In responding to the SOR, she admitted each of the allegations. During her background interview, she stated the omission of her financial delinquencies in her SCA was an oversight. In her answer to Department Counsel’s File of Relevant Material (FORM), she stated that she did not intend to falsify her SCA. She indicated that she believed that either her father or an insurance company were paying her debts. During her background interview, she noted the IRS began confiscating her income tax refunds in 2017 to apply those funds to her delinquent student loans. She presented no documentary evidence of any payments made on the alleged accounts, of contact with creditors, of financial counseling, or of her current financial situation.

All of Applicant’s alleged debts are still ongoing and unresolved. While she experienced periods of unemployment and other struggles, the evidence is insufficient to conclude she acted responsibly under the circumstances. Insufficient evidence was submitted to demonstrate that she is financially responsible. When Applicant submitted her SCA, she was aware her student loans were delinquent because the IRS was confiscating her income tax refunds. She deliberately falsified her SCA to cover up her financial problems. She failed to mitigate the alleged security concerns.

Discussion

In her appeal brief, Applicant contends that the omissions in her SCA were “an unintentional oversight.” Appeal Brief at 1. She argues that she had no idea of the scope of her financial problems. In making these arguments, she has not challenged any of the Judge’s findings

of fact. Instead, she essentially repeats claims she made below that the Judge discounted. The Directive requires us to give deference to a Judge's credibility determination. Directive ¶ E3.1.32.1. We find no reason to disturb the unfavorable credibility determination the Judge made in concluding she deliberately falsified her SCA. From our review of the record, the Judge's material findings and conclusions regarding the SCA falsification are based on substantial evidence or constitute reasonable inferences that could be drawn from the evidence. *See, e.g.*, ISCR Case No. 19-02345 at 3 (App. Bd. Feb. 8, 2021).

Applicant acknowledges that she has been struggling financially over the past years, now realizes her mistakes, and is taking steps to rectify situation as quickly as possible. None of her arguments are sufficient to demonstrate that the Judge's analysis or conclusions are arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3. She provided points of contact if the Board has any questions. The Board does not have authority to conduct an inquiry or investigation on behalf of a party. *See, e.g.*, ISCR Case No. 00-0140 at 2 (App. Bd. Sep. 19, 2000).

Applicant has failed to establish 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 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