



**DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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(703) 696-4759**

Date: January 26, 2022

In the matter of:)
)
)
-----) ISCR Case No. 20-00949
)
Applicant for Security Clearance)
_____)

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Carl Anthony Marrone, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On September 10, 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 October 1, 2021, after the hearing, Administrative Judge Wilford H. Ross 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 analysis of the evidence was flawed, resulting in a decision that was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The SOR alleged that Applicant had a mortgage account pending foreclosure that was past due for about \$51,800 and that he had two charged off accounts totaling over \$26,000. In

responding to the SOR, Applicant admitted the three debts. The Judge found against Applicant on each of those debts, concluding Applicant did not show he has acted responsibly in attempting to resolve them.

In his brief, Applicant contends that the alleged delinquent debts are not a sufficient basis for denying him a security clearance. He argues that there must be other factors—such as addiction, gambling or mental health problems—associated with the debts for them to be disqualifying. This is an inaccurate interpretation of the Directive. *See, e.g.*, ISCR Case No. 19-03940 at 2-3 (App. Bd. Jan. 10, 2022) for a lengthier discussion of this issue. It is well established that financial problems, standing alone, may be a sufficient basis to raise security concerns and to disqualify an applicant from being granted a security clearance. The three delinquent debts alleged in the SOR were a sufficient basis for the Judge to deny Applicant’s security clearance eligibility.

Applicant challenges the Judge’s conclusion that Applicant had “no plans to make payments” on two of the alleged debts, *i.e.*, the mortgage account and a charged-off credit card account. Appeal Brief at 5, quoting from Decision at 3. In his findings, the Judge noted that foreclosure proceeding had started on the mortgage account and that Applicant has not made any recent payments on the credit card account. Based on our review, the challenged conclusions were reasonable inferences drawn from the evidence. Applicant has not cited any evidence that would establish the Judge erred in making those conclusions.

Applicant contends the Judge improperly analyzed the evidence. For example, he argues that the Judge erred by overemphasizing the unfavorable evidence and by failing to apply correctly the mitigating conditions. In his arguments, Applicant highlights his military service, attributes his financial problems to a 2016 divorce, and notes he has never been involved in a security incident. He further claims that the Government does not oppose him being granted a security clearance. In essence, Applicant’s brief argues for an alternative interpretation of the record evidence, which is not sufficient to demonstrate the Judge’s findings and conclusions are erroneous. *See, e.g.*, ISCR Case No. 99-9020 at 2 (App. Bd. Jun. 4, 2001). Applicant has not rebutted the presumption that the Judge considered all the evidence in the record, nor has he shown the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to the evidence. *See, e.g.*, ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

Applicant 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 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: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: Moira D. Modzelewski
Moira D. Modzelewski
Administrative Judge
Member, Appeal Board