

Date: March 2, 2022

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In the matter of: )  
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----- ) ISCR Case No. 21-00734  
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Applicant for Security Clearance )  
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**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 July 13, 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 December 16, 2021, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello 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: whether the Judge failed to consider mitigating evidence or whether she weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

## **The Judge's Findings of Fact and Analysis**

Applicant's SOR alleges three delinquent student loan accounts in the total amount of a little over \$123,000 and a delinquent credit card debt of about \$2,700. Applicant did not disclose the student loans on his security clearance application but acknowledged them during his subsequent interview. He told the interviewer that they were for his son's college education and did not provide a reason for their delinquency. In his SOR answer Applicant denied responsibility for the loans, contending that his wife handled the financial matters associated with their children's education and that he was unaware that he was listed as solely responsible for the debts arising therefrom. In his response to the File of Relevant Material Applicant claimed that he was disputing the student loans but would pay them were his disputes unsuccessful. The Judge found Applicant's various contentions about his liability for the student loans to be lacking in credibility. She cited to his acknowledgment of the loans during his clearance interview and to evidence that his children had received the economic benefit of these loans by using the proceeds to fund their education. She noted evidence that Applicant's name is on the promissory notes, establishing his liability for the debts. She concluded that Applicant had not presented evidence of debt resolution sufficient to mitigate the SOR concerns and entered adverse findings for all four allegations.

## **Discussion**

Applicant's appeal brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. He states that he understands that the Judge's decision "was made according to the laws" but believes it unfair that he should be held responsible for debts of which he was unaware at the time they were incurred. Appeal Brief at 1. We construe this argument to mean that, while the Judge's findings about his formal liability on the student loans were legally correct, her adverse decision did not reflect an accurate assessment of his judgment and reliability. The Judge made findings about Applicant's claim that he was not aware of his liability for the student loans, and she addressed it in her analysis. Her conclusion that Applicant lacked credibility on this matter is sustainable. We give deference to a Judge's credibility determinations. Directive ¶ E3.1.32.1. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has he shown that the Judge mis-weighted the evidence. *See, e.g.*, ISCR Case No. 20-00290 at 4 (App. Bd. Feb. 16, 2022).

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: James F. Duffy  
James F. Duffy  
Administrative Judge  
Chairperson, Appeal Board

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

Signed: Jennifer I. Goldstein  
Jennifer I. Goldstein  
Administrative Judge  
Member, Appeal Board