



DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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Date: May 12, 2022

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| In the matter of: |) | |
| ----- |) | ISCR Case No. 21-01725 |
| 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 August 6, 2021, 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 (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On March 31, 2022, after considering the record, 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.

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 SOR alleged that Applicant had 11 delinquent debts totaling about \$27,000 and that he falsified a security clearance application (SCA) in 2020 by failing to disclose his delinquent

debts. In responding to the SOR, he admitted nine of the alleged debts and denied the remaining debts and the falsification allegation. The Judge found against Applicant on all of the allegations.

Applicant's SOR response contained no documentation showing he paid or is making payments toward any of the alleged debts. As for the falsification allegation, his SOR response merely stated that he was unaware of the delinquent debts and was working with the creditors to resolve them. Applicant did not submit a response to Department Counsel's File of Relevant Material. In the decision, the Judge noted that Applicant failed to provide any documentation to support his claims regarding his efforts to resolve the debts.

In his appeal brief, Applicant contends the Judge's decision was made based upon insufficient information, presents documents and assertions regarding his resolution of various debts, and provides an explanation for his failure to disclose the debts on his SCA. These documents and assertions constitute new evidence that the Appeal Board is prohibited from considering. *See* Directive ¶ E3.1.29 stating, "No new evidence shall be received or considered by the Appeal Board."

In the decision, the Judge noted that there was no indication that Applicant received financial counseling, that his financial problems are under control, and that he has initiated a good faith effort to pay or resolve the delinquent debts. Regarding the falsification, the Judge noted Applicant failed to disclose any of the 11 delinquent debts that were reflected on his 2019 and 2020 credit reports on his SCA and provided no convincing explanation why so many delinquent accounts totaling about \$27,000 were simply overlooked. None of Applicant's arguments in his appeal brief are sufficient to establish the Judge committed any harmful error in rendering his decision.

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

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

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