



**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**

Date: June 14, 2022

In the matter of:)	
)	
-----)	ISCR Case No. 20-01176
)	
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 November 23, 2020, 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 decision on the written record. On March 31, 2022, after the record closed, Defense Office of Hearings and Appeals (DOHA) Administrative Judge LeRoy F. Foreman denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

On appeal, Applicant challenges the Judge’s consideration of a resolved debt, highlights that he is in a debt consolidation program, and submits additional evidence. Consistent with the following, we affirm.

The Judge's Findings of Fact and Analysis

Applicant is in his mid-fifties. Employed by federal contractors since February 2006, he was cleared for a position of public trust in 2007 after disclosing delinquent debts. In his current security clearance application (SCA), Applicant disclosed two delinquent debts: a dental bill from 2014 and a car-repair bill in 2015. The car repair account was satisfied in 2019.

The SOR alleges 11 delinquent debts totaling about \$108,900. In April 2019, Applicant retained a law firm to assist him in resolving his debts. He enrolled in a 42-month program with an estimated completion date of October 2022 and monthly payments of \$285. He has increased his payments to \$355/month. His estimated completion date is now in 2025.

Of the 11 delinquent debts alleged, five are federal student loans totaling about \$91,100 that became delinquent in 2017. These student loans are not included in the law firm's program. Since March 2020, Applicant's student loans have been in forbearance under the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). In August 2020, Applicant signed an agreement to participate in a loan rehabilitation program for these loans, paying \$133/month, and has stated his intent to begin payment when the forbearance ends. Notwithstanding the forbearance, Applicant's student loans were delinquent well before the forbearance went into effect, and he has not yet completed a loan rehabilitation program. "I am not convinced that he will make the required payments on his student loans when they are no longer in forbearance." Decision at 3.

The remaining six SOR allegations are consumer and auto loan debts that total about \$17,800. Several debts are included in the law firm's program. While in this program, Applicant has settled and paid one, settled two, and is negotiating one more.

Applicant's delinquent debts are recent, numerous, and not incurred under circumstances marking recurrence unlikely. Although Applicant has recently experienced events beyond his control, those situations occurred after the student loans and consumer debts were delinquent. Applicant did not hire the law firm to assist him in resolving his consumer debts until his security clearance was in jeopardy. He has not rehabilitated his student loans or begun payments. He has offered limited evidence about his overall income and expenses, and has not persuasively explained why so many debts became delinquent in 2017 and 2018, while he was employed.

Discussion

On appeal, Applicant highlights that the Judge referenced his car repair bill of \$7,000, states that debt has been resolved, and argues that the Judge should not have considered the debt in his decision. The debt in issue was not alleged in the SOR. As clear from the summary above, the Judge mentioned the debt as one disclosed by Applicant on his SCA, acknowledged that it was resolved, and did not reference it again. Our review confirms that the Judge did not consider that particular debt for any purpose. This claim of error lacks merit.

Second, Applicant highlights that he is enrolled in a debt consolidation plan and questions whether applicants must be debt-free before granting a clearance: "Is it the government's position that you can only hold a clearance if you are debt free before employment? As citizens of this

nation we all have some type of debt whether it's in the form of a mortgage, student loan, car loan or credit cards." Appeal Brief at 2. We concur that debt itself is typically not an issue. Instead, it is delinquent debt that raises a concern under Guideline F, as a failure to meet financial obligations "may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations[.]" Directive, Encl. 2, App. A ¶ 18. The 11 delinquent debts alleged in the SOR were a sufficient basis for the Judge to deny Applicant's security clearance eligibility.

Applicant makes no other assertion of harmful error on the part of the Judge. However, Applicant re-states information previously provided to the Judge, submits documents previously considered, and submits new evidence as well. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive E3.1.29.

The Judge examined the relevant evidence and articulated a satisfactory explanation for his 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: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Member, Appeal Board