

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: August 2, 2022
In the matter of:)	
)	
)))	ISCR Case No. 20-03497
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 February 15, 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 DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On May 27, 2022, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Ross D. Hyams denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant received a Chapter 7 bankruptcy discharge in about 2013 and owed about \$3,300 in delinquent Federal taxes for 2009 at the time of the bankruptcy filing; that he failed to file Federal and state income tax returns for 2015-2018 as required; and that he was indebted to his state for about \$5,700 in delinquent taxes, interest, and penalties for 2015 and 2016. In responding to the SOR, Applicant admitted each of the SOR allegations and provided a lengthy explanation contending the alleged security concerns were mitigated. In finding against Applicant on each of the SOR allegations, the Judge concluded, "Applicant did not provide

sufficient information to mitigate the financial considerations security concern about his failure to timely file Federal and state income tax returns, and pay outstanding Federal and state tax debt." Decision at 1.

Applicant's appeal brief makes no assertion that the Judge committed harmful error in his decision. Rather, it contains documents that were not previously provided to the Judge for consideration and makes assertions based on those documents. Those documents and assertions constitute new evidence that the Appeal Board is prohibited from considering. Directive ¶E3.1.29.

The Board does not review cases *de novo*. The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Because Applicant has not alleged any harmful error, the decision of the Judge denying Applicant security clearance eligibility is sustainable.

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