

Applicant denied that she currently owed the debts as they are beyond her state's statute of limitations.

In 2011, Applicant bought a foreclosed house for \$24,500 and renovated the house with the help of friends. She financed expenses of about \$75,000 with credit cards as she was unable to qualify for a mortgage loan. She was initially able to keep her credit card payments current, but the high balances caused some of the credit companies to raise interest rates.

In about 2014, Applicant sought the services of a debt settlement company, which advised her to stop paying on the credit cards to enable the company to negotiate settlements. Applicant enrolled her debts into the debt relief plan and paid \$734 every two weeks. One of the creditors informed Applicant that she would be sued if she did not pay their account, and the debt relief company offered no assistance. In October 2015, Applicant withdrew from the program, having paid a total of about \$29,000 into the program. Two debts totaling about \$20,000 were settled.

After withdrawing from the debt relief plan, Applicant settled the debt from the company that threatened to sue her, but did not pay any other debt. Instead, she stated, she put the money in an account to be used if she was sued by another creditor or to eventually pay the debt.

In 2017, applicant sought professional financial advice about paying her debts and the option of selling her house to do so. The advisor cautioned against selling the house. Between 2018 to 2020, Applicant took two lengthy out-of-state assignments, during which she earned overtime and per diem and saved about \$75,000. In July 2019, Applicant submitted a security clearance application on which she fully disclosed her delinquent debts, accepted responsibility for them, and stated her intent to pay.

In 2020, Applicant retained an attorney to locate her creditors, so that she could ensure she was paying the correct entity. The attorney advised Applicant that most of the debts could not be legally enforced as they were beyond the state's statute of limitations (SOL). Two of the debts may not have reached the SOL threshold at that time, but the attorney advised Applicant not to pay on them and Applicant followed his advice. None of the debts alleged in the SOR have been paid.

Applicant sold the house in January 2022 for \$255,000. From the proceeds, she paid about \$43,000 toward student loans, bought a new car for about \$30,000, and is holding \$80,000 as a down payment on a new home. Applicant called witnesses and submitted documents attesting to her strong moral character and her excellent job performance.

Judge's Analysis: The Judge's analysis is quoted below, in pertinent part:

Applicant has a history of delinquent debts and financial problems. The evidence indicates that it was initially difficult for her to pay her debts, but clearly she could pay the debts at some point, she just chose not to. . . . Applicant's plan to buy and renovate a house worked out very well for her. Not so much for most of the creditors that funded the renovations. . . . She paid about \$29,117 into the

debt relief plan, settling two debts in the process, and she settled a third debt. Even accounting for those figures, she profited more than \$150,000 on the sale of her house, and she never had to pay rent or a mortgage loan. Applicant is relying on the statute of limitations and that the debts are no longer listed on her credit report. However, reliance on the statute of limitations does not constitute a good-faith effort to resolve debts. (internal citation omitted.) . . . I am unable to find that she acted responsibly under the circumstances or that she made a good-faith effort to pay her debts. Her financial issues cast doubt on her current reliability, trustworthiness, and good judgment. None of the mitigating conditions are applicable. [Decision at 5–6.]

Discussion

On appeal, Applicant does not challenge any of the Judge’s material findings. Instead, she challenges his conclusions, arguing that he failed to consider an important aspect of the case and that his analysis ran contrary to the weight of the evidence, rendering his decision arbitrary and capricious. We disagree.

Essentially, Applicant asserts that she acted responsibly and made good-faith efforts, in that she participated in a debt relief program, withdrew when it was ineffective, worked overtime to save money to pay her bills, and sought out an attorney to help her locate the companies to which she owed money. When that attorney advised her instead not to contact any of the companies, she simply followed her attorney’s advice. She contends that the Judge failed to consider her good-faith efforts to pay the debts or to give those efforts their proper weight.

Contrary to Applicant’s argument, our review of the record and the Judge’s decision confirms that the Judge considered all the evidence presented, including that evidence cited by Applicant in her appeal. The record establishes that Applicant was initially inclined to repay her debts and made some efforts to do so, but that she ultimately decided to rely instead on her state’s statute of limitations. The Appeal Board has long recognized that debts remain relevant for security clearance purposes even if they are no longer enforceable due to the running of the statute of limitations. That is, a judge may consider the underlying circumstances of these uncollectable debts in evaluating whether an applicant demonstrated good judgment, trustworthiness, and reliability. *See, e.g.*, ISCR Case No. 01-09691 at 3 (App. Bd. Mar. 27, 2003).

As the Judge highlights in his decision, we have consistently held that reliance on a state’s statute of limitations does not constitute a good-faith effort to resolve financial difficulties and is of limited mitigative value. *See, e.g.*, ISCR Case No. 15-01208 at 3 (App. Bd. Aug. 26, 2016). On appeal, Applicant appears to argue that her earlier efforts to address her debts (e.g., working overtime, saving money, contacting an attorney) should be recognized as good-faith efforts that mitigate the debts. We note that Applicant has made no payments on debts related to her renovations since 2014 or 2015 and that all eight debts alleged on the SOR remain unpaid. Adjudicative Guideline ¶ 20(d) requires that the applicant “initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts[.]” We do not find persuasive the argument that saving money to repay her creditors and reaching out to an attorney for advice on

how to do so constituted a good-faith effort, as Applicant ultimately elected to make no payments despite having the means to do so. The Judge’s conclusions that Applicant did not act responsibly under the circumstances and that she did not make a good-faith effort to pay her debts are amply supported by the record.

Applicant’s disagreement with the Judge’s weighing of the evidence, or her ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *Id.* Applicant has failed to establish the Judge committed any harmful error. 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: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Member, Appeal Board