

Date: October 3, 2022

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In the matter of:	)	
	)	
	)	
-----	)	ISCR Case No. 21-01673
	)	
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 J (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On August 2, 2022, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson 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 on appeal: whether the Judge failed to consider all of the evidence or whether she mis-weighted the evidence, resulting in a decision that was arbitrary,

capricious, or contrary to law. The Judge’s favorable findings under Guideline F are not at issue in this appeal. Consistent with the following, we affirm.

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

Applicant is in her early 30s and seeks to obtain a security clearance in connection with her job. The specific findings pertinent to the issues raised on appeal center around an incident of DUI and its aftermath. Applicant was arrested and charged with that offense in June 2019, her blood alcohol level registering .16. She was sentenced to 12 months of confinement with 11 months and 25 days suspended, a fine, and supervised probation. Applicant successfully completed a substance abuse counseling program. In late 2019 and again in early 2020, Applicant failed to report to the local sheriff’s office for the completion of required community service and was charged with a probation violation. On both occasions she claimed that she had been working late and that it was difficult for her to arrive at the sheriff’s office early in the morning. As result of her second offense Applicant was required to serve seven days “straight time” in jail. Decision at 5. The Judge concluded that Applicant’s misconduct demonstrates “poor judgment, immaturity, and a total disregard for the law,” thereby impugning her trustworthiness and reliability. *Id.* at 8. The Judge held that Applicant had not mitigated the concerns arising from her criminal conduct.

### **Discussion**

Applicant contends that the Judge did not consider all of the evidence that she submitted in her behalf, making specific reference to her character references. Applicant attaches to her appeal brief copies of documents that she had included in her Answer to the SOR and in her Response to the File of Relevant Material. In addition, her brief cites to matters that she believes provide context to her security concerns.

We have considered Applicant’s arguments in light of the totality of the record evidence. The Judge made findings about many of the things Applicant cites in her brief, including her character references and her explanation for her probation violations. A Judge cannot be expected to explicitly address every pieces of record evidence, which would be a virtual impossibility. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 18-02872 at 3 (App. Bd. Jan. 15, 2020). Applicant’s brief consists, in large measure, of a disagreement with the Judge’s weighing of the evidence, which is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 20-03789 at 3 (App. Bd. Aug. 20, 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: Moira Modzelewski  
Moira Modzelewski  
Administrative Judge  
Member, Appeal Board