

The Judge’s Findings of Fact and Analysis

Applicant is in his fifties, has worked in his current position since January 2008, and earned an associate’s degree in 2010.

Applicant’s eight delinquent debts total approximately \$96,000. Two are student loans that total about \$90,000, and the other six are delinquent medical debts. The student loans first became due sometime in 2010, but Applicant applied for forbearance or deferrals for several years. At most, Applicant made one or two payments on the loans. In December 2021, he entered into a student loan rehabilitation agreement, prompted—he admitted—by receipt of the SOR. As of the hearing, Applicant had not yet started payments under his rehabilitation agreement. The Judge took administrative notice that all federal student loans were deferred as of late March 2020, but also noted that Applicant was delinquent on the debts prior to their placement in a deferment status.

In April 2021, Applicant borrowed money from a family member and settled the six delinquent medical debts. He then borrowed money from his retirement savings to pay back his family member. Applicant admitted that receipt of the SOR motivated him to settle and pay the medical debts, which arose in 2018.

Applicant has “twice afforded himself fresh starts through Chapter 7 bankruptcies, thereby discharging hundreds of thousands of dollars of debt,” but once again has financial problems. Decision at 6. His student loan debt has been due for over a decade and has been in collection for several years. Additionally, he had delinquent medical debt that went unresolved for many years. He has now resolved his medical debts and entered into a rehabilitation plan for his student loans. However, the timing of his efforts—only after he received notice that his clearance was in jeopardy—reduces their value in mitigation.

I am unable to find that Applicant acted responsibly under the circumstances or that he made a good-faith effort to pay his student loans and medical debts. . . . His prolonged history of financial problems with little to no track record of financial stability fails to show that his financial issues are unlikely to recur. [*Id.* at 7.]

Discussion

Applicant has not challenged any of the Judge’s specific findings of fact. Rather, he contends the Judge erred in failing to comply with the provisions in Executive Order 10865 and the Directive by not considering all of the evidence, by mis-weighting the evidence, and by not properly applying the mitigating conditions and whole-person concept. For example, Applicant argues that the Judge “refused to find in favor of Applicant regarding [the medical debts] solely due to the timing of Appellant’s efforts to rectify these debts.” Appeal Brief at 6. However, the Judge’s determination that Applicant’s post-SOR efforts were of “little mitigative value” is well-rooted in the Appeal Board precedent to which he cites. Decision at 7. None of Applicant’s arguments are enough to rebut the presumption that the Judge considered all of the record evidence or to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

Although we give due consideration to the Hearing Office cases that Applicant’s counsel has cited, they are neither binding precedent on the Appeal Board nor sufficient to undermine the Judge’s decision. *See, e.g.*, ISCR Case No. 17-02488 at 4 (App. Bd. Aug. 30, 2018).

Applicant failed to establish that the Judge committed any harmful error or that he should be granted any relief on appeal. 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: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

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