



**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: December 22, 2022

In the matter of:)	
)	
-----)	ISCR Case No. 21-00843
)	
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 June 25, 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 hearing. On October 26, 2022, after the record closed, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Caroline E. Heintzelman 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 Chapter 7 bankruptcy discharges in 2005 and 2015; that he owed over \$17,000 in delinquent Federal taxes for 2013, 2014 and 2016; that he owed about \$7,800 in delinquent local state taxes; and that he had five other delinquent debts totaling about \$2,600. In responding to the SOR, Applicant admitted the bankruptcy allegations, Federal tax allegations, and two of the non-tax debt allegations. He denied the local state tax debt and three of the non-tax debts. The Judge found in favor of Applicant on the local state tax debt and three of the non-tax debts totaling about \$1,000 and found against him on the remaining allegations.

In the decision, the Judge noted that Applicant's Federal tax delinquencies are ongoing and he failed to provide documentation substantiating an installment agreement and payments towards it. The Judge concluded that Applicant has a lengthy history of financial issues and that he failed to establish he acted responsibly in addressing his financial problems.

In his appeal brief, Applicant claims the Judge erred in the History of the Case by stating he submitted a security clearance application (SCA) on October 16, 2018. Applicant's assertion has merit because the only SCA in the record is dated October 15, 2020. His argument that this error is a basis for concluding the Judge reviewed the SCA improperly is not persuasive. Based on our review of the record, we conclude the minor oversight regarding the SCA's date is harmless because it did not likely affect the outcome of the case. *See, e.g.*, ISCR Case No. 19-01220 at 3 (App. Bd. Jun. 1, 2020).

Applicant's brief contains an IRS document that post-dates the Judge's decision. This document constitutes new evidence that the Appeal Board is prohibited from considering. Directive ¶ E3.1.29.

Applicant also argues that he needs a security clearance to further his career. The Directive, however, does not permit us to consider the impact of an unfavorable decision. *See, e.g.*, ISCR Case No. 19-01206 at 2 (App. Bd. May 13, 2020).

Applicant failed to establish that 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 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: Jennifer I. Goldstein
Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board

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