

Date: January 25, 2023

In the matter of:)
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Applicant for Security Clearance)
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ISCR Case No. 20-00654

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 21, 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 Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On December 5, 2022, after the record closed, Administrative Judge Shari Dam denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged 20 financial concerns—8 allegations regarding federal and state taxes and 12 allegations of delinquent consumer debt. The Judge found for Applicant on 14 allegations, including all tax allegations, and against him on six delinquent consumer debts that totaled about \$19,000. On appeal, Applicant does not challenge any of the Judge’s specific findings of fact. Instead, he highlights his payments to the IRS and department counsel’s arguments regarding those payments. We note that all tax allegations were all resolved in Applicant’s favor. Additionally, Applicant contends that the Judge did not consider all the receipts that he submitted, to include the

receipts submitted after the hearing. However, the Judge cited to Applicant's post-hearing submissions in resolving numerous allegations in his favor.¹

Applicant also asserts that the Judge was upset with him because the originally-scheduled hearing had to be postponed due to technical issues. To the extent that Applicant is alleging bias, we are not convinced. There is a rebuttable presumption that a Judge is impartial and unbiased, and a party seeking to overcome that presumption has a heavy burden of persuasion. Applicant has failed to cite any specific instances that would cause a reasonable person to doubt the Judge's fairness or impartiality, and our review of the record and decision reveals none. *See, e.g.*, ISCR Case No. 20-02787 at 3–4 (App. Bd. Mar. 9, 2022).

In conclusion, Applicant has not identified any harmful error in the Judge's handling of his case or in his decision. The Judge examined the relevant evidence and articulated a satisfactory explanation for his 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."

¹ Our review reveals that the Judge erred in her findings of fact regarding SOR ¶ 1.h—a consumer debt of \$459. She concluded that it was unresolved in her findings of fact, but entered a formal finding for Applicant on the allegation. The favorable formal finding is supported by Applicant's evidence. Any error was harmless, as the resolution of this relatively minor debt did not likely have an impact on the outcome of the case. *See, e.g.*, ISCR Case No. 19-01220 at 3 (App. Bd. Jun. 1, 2020).

Order

The Decision is **AFFIRMED**.

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Chairperson, Appeal Board

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

Signed: Gregg A. Cervi
Gregg A. Cervi
Administrative Judge
Member, Appeal Board