



**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: January 30, 2023

In the matter of:	)	
	)	
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	)	
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 13, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis of 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 November 29, 2022, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Edward W. Loughran denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant is in his mid-forties and recently married, with a young child and two stepchildren. A veteran, he has been continuously employed by defense contractors since his honorable discharge in 2007.

The SOR alleged two delinquent credit card accounts of about \$50,800 and \$9,800. Applicant accumulated the debt on the two accounts through about 2016 and then stopped making

payments. He has made no payments since that time. Applicant stated that he contacted the creditors but could not afford their proposed settlement offers. Although he sold a condominium in an effort to pay the debts, he instead used the proceeds for living expenses, as his wife was unable to find work during the COVID-19 pandemic. Applicant has not accrued any new delinquent debt, is saving money, and plans to resolve the two alleged debts.

Applicant has not challenged any of the Judge's specific findings of fact. Rather, he contends the Judge erred in his application of the mitigating conditions and the whole person concept. For example, Applicant argues that the Judge did not take into consideration that his delinquent debts are over six years old and not likely to recur. Appeal Brief at 1. However, the Judge's determination that Applicant's financial issues are "recent and ongoing"<sup>1</sup> is firmly rooted in Appeal Board precedent. It is well established that an applicant's ongoing, unpaid debts evidence a continuing course of conduct and, therefore, can be viewed as recent for purposes of the Guideline F mitigating conditions. *See, e.g.*, ISCR Case No. 15-01690 at 3 (App. Bd. Sep. 13, 2016).

Applicant also argues that the Judge failed to consider "the mitigating circumstance of the Covid-19 pandemic," citing to Hearing Office cases in which he believes that factor was given weight. We note first that Applicant's SOR debts were delinquent and unaddressed for several years prior to the onset of the pandemic. Second, each case is decided on its own merits. Directive, Encl. 2, App. A ¶ 2(b). The Hearing Office cases that Applicant cites are binding neither on the Judge in his case nor on the Appeal Board. *See, e.g.*, ISCR Case No. 19-03344 at 3–4 (App. Bd. Dec. 21, 2020). 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).

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 the national security."

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<sup>1</sup> Decision at 5.

**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