

DEPARTMENT OF DEFENSE

DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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		Date: January 25, 2023
In the matter of:)	
)	ISCR Case No. 21-00634
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 May 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 DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On September 27, 2022, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Candace Le'i Garcia 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 owed the Federal Government about \$15,000 for six tax years between 2011 and 2018; that he had a judgment entered against him in 2019 for a medical debt of about \$1,100; and that he had a delinquent school debt of about \$330. In responding to the SOR, Applicant admitted each of the alleged debts with explanations. The Judge found in favor of Applicant on the school debt and against him on the other allegations. In the decision, the Judge indicated that Applicant took tourist trips outside the United States in 2014, 2017, and 2018.

Additionally, the Judge noted Applicant failed to provide documentation corroborating some of his claims and concluded that doubts remained about his security clearance eligibility.

On appeal, Applicant takes issue with the Judge's finding about his trips, asserts that circumstances were overlooked in his clearance determination, and provides explanations regarding his financial difficulties. None of his 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. 21-01169 at 5 (App. Bd. May 13, 2022). Applicant also mentions that he needs a security clearance to continue in his job. On this last point, the Directive does not permit us to consider the impact of an unfavorable decision. *See*, *e.g.*, ISCR Case No. 17-03024 at 3 (App. Bd. Jan. 9, 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 the national security."

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