



**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 9, 2023

In the matter of:)	
)	
-----)	ISCR Case No. 22-00907
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Julie R. Mendez, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 17, 2022, 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, which was held on September 20, 2022. On November 10, 2022, after close of the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Eric H. Borgstrom denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

As amended, the SOR contains seven Guideline F allegations. In his analysis, the Judge stated:

The Government established Applicant’s six delinquent debts (SOR ¶¶ 1.a – 1.f) totaling approximately \$38,512. These accounts become delinquent between July 2019 and March 2021, and they remain delinquent.

* * *

During the hearing, Applicant admitted that he has not filed his TY 2020 and TY 2021 Federal income tax returns [SOR ¶ 1.g], due in May 2021 and April 2022, respectively. After the hearing, Applicant provided a copy of an undated and unsigned Federal income tax return for TY 2020. It is unclear whether this return was mailed or electronically filed. He owes approximately \$1,648 in Federal taxes plus penalties and interest for TY 2020. Although Applicant provided an account transcript for TY 2021, there is no evidence that he filed his tax return or received a filing extension. [Decision at 8.]

In his appeal brief, Applicant contends the Judge erred in his adverse formal findings regarding Applicant's alleged failure to file timely Federal income tax returns for 2020 and 2021 and Applicant's delinquent debt to Federal Government for about \$2,500. As best we can discern, Applicant is claiming he filed his Federal tax returns for 2020 and 2021. He is also claiming the Federal debt is the result of fraud, *i.e.*, someone forged his signature on a promissory note without his knowledge. Applicant, however, did not raise this fraud claim at the hearing. His credit report of September 2022 (Government Exhibit 4) establishes the Federal debt. Furthermore, he admitted that he owed this debt at the hearing but was unsure of the amount owed. Tr. at 70-71 and 94-96. From our review of the record, the Judge's material findings and conclusions regarding these allegations are based on substantial evidence or constitute reasonable inferences that could be drawn from the evidence. *See, e.g.*, ISCR Case No. 17-02225 at 2-3 (App. Bd. Jun. 25, 2019). We find the Judge committed no harmful error in reaching those adverse formal findings.

Applicant also contends that he is in the process of making payment arrangements for two of the remaining debts and that he reached out to a third creditor for a payment arrangement but was unable to afford the proposed amount. As the Appeal Board has previously stated, a statement of intent or promise to take remedial steps regarding delinquent debts in the future is not evidence of reform or rehabilitation. *See, e.g.*, ISCR Case No. 99-0447 at 3 (Jul. 25, 2000). 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. 21-01169 at 5 (App. Bd. May 13, 2022).

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