



**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: February 6, 2023

<p>In the matter of:</p> <p style="text-align: center;">-----</p> <p>Applicant for Security Clearance</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>ISCR Case No. 22-00286</p>
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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 5, 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 initially requested a hearing, but later requested a decision on the written record. On December 22, 2022, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Juan J. Rivera 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 had ten delinquent debts totaling about \$24,500. The Judge found in favor of Applicant on two medical debts totaling about \$240. The Judge noted that Applicant presented no documentary evidence of any good-faith efforts to pay, settle, dispute, or otherwise resolve his delinquent debts before or after receipt of the SOR. Although Applicant experienced conditions beyond his control that contributed to his financial problem, the Judge concluded that Applicant failed to show he had acted responsibly under the circumstances.

On July 21, 2022, Department Counsel’s File of Relevant Material (FORM) was mailed to Applicant. It notified him that he had 30 days from its receipt to submit objections and any additional material he would like the Judge to consider. In the decision, the Judge noted Applicant did not submit a response to the FORM. On appeal, Applicant indicates that he moved to a new location on August 1, 2022, and claims that he did not receive the FORM but would have replied had he received it. The record, however, contains emails that sufficiently rebut that claim. On August 19, 2022, a DOHA Legal Assistant sent Applicant an email inquiring whether he received an “Eyes Only” package sent to him on the date noted above. On August 20 and 22, 2022, Applicant sent emails advising the DOHA Legal Assistant that he received the “eyes only package.” Based on our review of the record, we concluded that Applicant has failed to establish a *prima facie* case that he was denied any due process rights afforded him under the Directive.

In his appeal brief, Applicant highlights the efforts he has taken to resolve his financial problems and argues that he has never been a security risk. None of his arguments, however, 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). He also asserts that he does not have access to classified information. The fact that Applicant previously did not have access to classified information while holding a security clearance is not a relevant consideration in determining his further security clearance eligibility. *See, e.g.*, ISCR Case No. 19-01098 at 2 (App. Bd. May 11, 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