

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

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| | | Date: March 9, 2023 |
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| In the matter of: |) | |
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| |) | ISCR Case No. 20-01808 |
| |) | |
| 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 7, 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 hearing. On January 26, 2023, after the record closed, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Leroy F. Foreman 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 debts that were delinquent in the approximate amount of \$19,000. At the hearing, the Judge left the record open for about three weeks to provide Applicant the opportunity to submit additional material. Tr. at 41-42. The Judge further commented that Applicant was "in a paper chase . . . to get the documents, so that . . . I can make my decision based on as complete a record as possible." *Id.* at 45. In the decision, the Judge noted

he extended the deadline for closing of the record for an additional two weeks at Applicant's request, but she did not present additional evidence. Decision at 2. The Judge found in favor of Applicant on one medical debt totaling about \$130 and against her on the remaining allegations. In the decision, the Judge noted that Applicant claimed many of the alleged debts were resolved or were being resolved but failed to submit documentary evidence to support those claims.

Applicant's appeal brief contains new evidence that the Appeal Board is prohibited from considering. Directive ¶ E3.1.29. Her brief does not assert that the Judge committed any harmful error. The Appeal Board does not review cases *de novo*. The Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Because Applicant has not alleged such a harmful error, the decision of the Judge denying Applicant security clearance eligibility is sustainable.

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: Allison Marie Allison Marie Administrative Judge Member, Appeal Board