

Date: March 28, 2023

In the matter of:)
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Applicant for Security Clearance)
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ISCR Case No. 22-00783

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 June 8, 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 Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On September 29, 2022, the Defense Office of Hearings and Appeals (DOHA) mailed a copy of the Government’s File of Relevant Material (FORM) to Applicant and afforded him an opportunity to file objections or submit material in refutation, extenuation, or mitigation. Applicant did not submit a response to the FORM. On January 31, 2023, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Charles C. Hale denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged eight financial concerns totaling approximately \$378,000, including six consumer, utility, and medical debts that were placed for collection or charged off, and two past-due mortgage accounts. The Judge found in favor of Applicant on the minor medical debt and against him on the remaining allegations.

During his security clearance investigation, Applicant explained that in 2012 he formed an LLC to acquire and sell real estate. In 2012, he began his current job as a Defense contractor and found he had significantly less time to spend on the LLC. Then, in 2014, Applicant asserts that a lender's erroneous action resulted in the LLC being unable to secure financing to buy new properties and make necessary repairs to others. As a result, the LLC dissolved in 2017. Decision at 3. The Judge found that Applicant's debts are recent, numerous, and ongoing, and that he failed to demonstrate responsible action regarding the debts or that he is pursuing a course of action that has a reasonable chance of successfully resolving them. Decision at 6.

On appeal, Applicant argues that the Judge erred because the record contained no evidence that Applicant has ever been alleged to be negligent in safeguarding classified information, or that he has "ever demonstrated poor self-control, lack of judgment, or unwillingness to abide by the rules and regulations" while employed by his security clearance sponsor. Appeal Brief at 1. Security clearance adjudications are predictive in nature, and it is foreseeable that individuals with prior good records may nevertheless engage in conduct or undergo circumstances that raise doubts about their future judgment or reliability. *See, e.g.*, ISCR Case No. 03-04927 at 5 (App. Bd. Mar. 4, 2005) (citing *Department of the Navy v. Egan*, 484 U.S. 518, 528-529 (1988)). The Government need not wait until an individual mishandles classified information before it can make an unfavorable security clearance decision. *Id.* (citing *Adams v. Laird*, 420 F.2d 230, 238-239 (D.C. Cir. 1969), *cert. denied*, 397 U.S. 1039 (1970)). Rather, an unfavorable clearance decision can be based on circumstances that raise security concerns sufficient to preclude a determination that it is clearly consistently with the national interest to grant or continue a security clearance for a given applicant, and a history of financial problems is a circumstance that raises such concerns. *See, e.g.*, ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004) (citing *Egan*, 484 U.S. at 528-529).

The remainder of Applicant's appeal amounts to a disagreement with the Judge's weighing of the evidence. For example, Applicant argues that the Judge erred in finding that the debts are recent and ongoing, citing one lender's litigation timeline for prolonging Applicant's resolution of the debt. Appeal Brief at 1-2. These arguments, however, are not sufficient to demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007).

Applicant has not established that the Judge committed harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, and the record evidence is more than sufficient to support that the Judge's findings and conclusions are sustainable. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Egan*, 484 U.S. at 528. "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." Directive, Encl. 2, App. A ¶ 2(b).

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