

Date: May 4, 2023

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 In the matter of:)
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)
 Applicant for Security Clearance)
 _____)

ISCR Case No. 19-03096

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 November 22, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 14, 2023, after the close of the record, Defense Office of Hearings and Appeals Administrative Judge Carol G. Ricciardello denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline F, the SOR alleged twelve federal tax concerns, including that Applicant failed to timely file returns for tax years 2011 and 2014 through 2018; that he carried a delinquent tax balance in the approximate amount of \$317,000 for tax years 2008 through 2011, 2016, and 2017; that the 2008, 2009, and 2010 balances were reduced to a lien in 2013 and the 2011 balance was reduced to a lien in 2016; that another lien was entered against him in 2010 for about \$5,400; and that he previously owed delinquent balances of about \$20,000 for tax year 2014 and about \$52,000 for tax year 2015, which were not paid until 2016 and 2017, respectively. The SOR also alleged two state tax concerns, including a previously delinquent balance of about \$3,000 that was resolved through payments, and an outstanding state tax lien entered against Applicant in 2019 for about \$1,300. Under Guideline E, the SOR alleged that Applicant committed fraud in preparation

of his 2008 through 2010 federal tax returns and that, as amended, he deliberately failed to disclose certain alleged tax problems in his February 2020 security clearance application.

The Judge found in favor of Applicant on all Guideline E allegations and six Guideline F allegations, but against him for his failure to timely file federal returns for tax years 2011 and 2014 through 2018 and the remaining Guideline F allegations, which represented over \$200,000 in ongoing delinquent federal tax debt for years 2009, 2011, 2016, and 2017, and about \$1,300 in ongoing state tax debt.

On appeal, Applicant does not assert that the Judge committed any harmful error. Rather, he states that he may have not explained himself correctly at hearing regarding the SOR concerns and requests an opportunity to clarify his position. The Appeal Board does not review cases *de novo*. Directive ¶ E3.1.29. The Board's authority to review a case is limited to matters in which the appealing party has alleged that the Judge committed harmful error. Applicant has not alleged any such harmful error, and therefore the Judge's decision denying Applicant a security clearance is sustainable.

Order

The decision is **AFFIRMED**.

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Chair, Appeal Board

Signed: Gregg A. Cervi
Gregg A. Cervi
Administrative Judge
Member, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board