

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: May 4, 2023
In the matter of:)))	
)	ISCR Case No. 20-03097
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 December 1, 2020, 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 March 13, 2023, 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 14 delinquent debts that totaled approximately \$54,300. In his response to the SOR, Applicant admitted all but two minor debts. For most debts, Applicant noted "Corrected" or "Progress" without explanation. In an earlier response to interrogatories, Applicant stated that several of the debts were paid or under payment plans, but submitted no supporting documentation. At least five of the alleged debts are no longer reflected on the most recent credit report. In summary, the Judge concluded, "Applicant argues that he has resolved [three alleged debts] by tax withholding. He also argues he is doing this during a move and an adoption. He

provides no further explanation and provides no substantiating documentation showing any action he had taken to resolve or address his accounts." Decision at 4.

On appeal, Applicant provides additional information about his security clearance history and requests reconsideration of the decision or a new investigation. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive E3.1.29.¹ Applicant also argues that the denial of his clearance was "not valid," as it was based upon "old debts that have been charged off of [his] credit report." Appeal Brief at 1. It is well established, however, that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions. *See*, *e.g.*, ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017).

Applicant failed to establish that the Judge committed any harmful error or that he should be granted any relief on appeal. 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 Chair, Appeal Board

Signed: Moira Modzelewski Moira Modzelewski Administrative Judge Member, Appeal Board

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

¹ Applicant also states that letters of recommendation are attached, but they were not included with his appeal brief. Regardless, the Board is prohibited from considering new evidence.