

Date: July 11, 2023

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

ISCR Case No. 21-00161

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 April 28, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision – security concerns raised under Guideline F (Financial Considerations), Guideline G (Alcohol Consumption), and Guideline J (Criminal Conduct) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On May 15, 2023, Defense Office of Hearings and Appeals Administrative Judge Pamela C. Benson denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant, in his mid-40s, served on active duty in the military from 2001 until his honorable discharge in 2006 and has been a member of the National Guard since 2007. He was divorced in 2019 and has one minor child. Applicant has been employed by a federal contractor and has held a security clearance since about 2014.

The Judge found against Applicant on all fourteen of the SOR’s Guideline F allegations, which consisted of delinquent medical, consumer, auto, and education debt totaling approximately \$64,000. The Judge also found adversely on the Guideline J allegations concerning Applicant’s arrests for driving under the influence (DUI) in 1998, 2005, and 2017, for domestic assault in 2011,

and for leaving the scene of an accident with property damage in 2020. The Judge found in favor of Applicant on the Guideline G allegations.

On appeal, Applicant argues that the Judge's decision overlooked certain information, including that his financial problems were linked to caring for his ailing father and mother and that he has served in the military for almost 22 years. Contrary to Applicant's assertions, the Judge acknowledged the foregoing factors, but apparently placed less weight on them than Applicant would prefer. For example, the Judge found that Applicant "experienced financial hardship after traveling out-of-state to attend to his elderly parents and the unforeseen expenses associated with the travel and their medical care," which amounted to a circumstance beyond his control, but concluded that Applicant failed to show that he acted responsibly to resolve his financial issues, which is required for mitigation credit. Decision at 6. Applicant's disagreement with the Judge's weighing of evidence is 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 also contends that the Judge overlooked that he voluntarily engaged in a treatment program and abstained from alcohol consumption for a year following his 2017 DUI. While it is true that the Judge did not specifically address Applicant's participation in the program in her decision, she ultimately concluded that Applicant's past alcohol-related misconduct was mitigated through the passage of time since the last incident. Even if the Judge had ruled adversely on the Guideline G allegations, Applicant's argument would again amount to a disagreement with the Judge's weighing of evidence. Because the Judge found favorably on the alcohol-related allegations, however, Applicant's argument is moot.

Finally, Applicant asserts that, without a security clearance, he will lose his job and ability to provide financially for his child and mother. The adverse impact of an unfavorable clearance decision is not relevant in evaluating clearance eligibility. *See, e.g.*, ISCR Case No. 08-11222 at 2 (App. Bd. Sep. 9, 2009).

Applicant failed to establish that the Judge committed any harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for her decision, and the record evidence is sufficient to support the Judge's findings and conclusions. The decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." AG ¶ 2(b).

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