

Date: July 18, 2023

In the matter of:)
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)
)
-----) ISCR Case No. 22-02011
)
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, 2022, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline F (Financial Considerations) 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 June 2, 2023, Defense Office of Hearings and Appeals Administrative Judge LeRoy F. Foreman denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged twelve financial concerns, including delinquent federal student loans, an auto loan, and a minor credit card debt, all totaling approximately \$44,000. The Judge noted that Applicant’s student loans were assigned to the Government for collection between 2012 and 2015 – before the COVID-19 pandemic and related payment pause went into effect – and found that a concern remained that Applicant would “not make payments on his student loans if collection of payments is resumed.” Decision at 3. The Judge also found that Applicant made one payment on

the auto loan and paid the minor credit card debt in full, but concluded that “[e]vidence of past irresponsibility is not mitigated by payment of debts under pressure of qualifying for a security clearance.” Decision at 6. In consideration of the foregoing, the Judge found against Applicant on all of the allegations.

With respect to the auto loan, Applicant asserted in his January 2023 SOR Response that he reached a payment agreement with the creditor; however, the Judge found that Applicant submitted no documentation in support of such an agreement. The Judge further found that Applicant “made one payment on his delinquent car loan, but he did not do so until he received the SOR and realized that his delinquent debts could prevent him from obtaining a security clearance.” Decision at 6. The Judge concluded that Applicant’s “single payment on the car loan falls short of a track record of timely payments.” *Id.*

On appeal, Applicant challenges the Judge’s finding that he made only one payment on the car loan, arguing instead that he made “multiple payments” prior to the Judge’s review of his case. Appeal Brief at 1. Our review of the record, specifically documentation submitted with Applicant’s SOR Response, reflects two \$50 payments to the creditor: one at the end of 2022 and one several days before submitting his Response. While the Judge’s finding that Applicant made only one instead of two payments is erroneous, the error was harmless because it did not likely affect the outcome of the case. *See, e.g.*, ISCR Case No. 10-01846 at 3 (App. Bd. Sep. 13, 2011).

Applicant also submits new evidence in the form of a narrative and documentary update on the status of his student loans and other debts not alleged in the SOR. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

Applicant has not established that the Judge committed harmful error. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which 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