

DEPARTMENT OF DEFENSE

DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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		Date: July 18, 2023
T. (1)	
In the matter of:)	
)	
)	ISCR Case No. 20-02694
)	
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 February 8, 2022, DoD issued an amended statement of reasons (SOR) advising Applicant of the basis for 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 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 25, 2023, after the record closed, Defense Office of Hearings and Appeals Administrative Judge Carol G. Ricciardello issued a decision denying Applicant security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline F, the amended SOR alleged that Applicant had 15 delinquent debts totaling about \$40,500, which includes consumer debts and over \$28,000 in student loans. In responding to that SOR, Applicant admitted each of the allegations. The Judge concluded that Applicant had not acted responsibly in addressing the alleged debts, noting that she recently purchased an expensive new car that significantly raised her monthly debt obligations. The Judge found against Applicant on ten of the alleged debts, including the four alleged student loans.

Applicant's appeal brief contains new evidence, *i.e.*, documents from outside the record, that we cannot consider. Directive ¶E3.1.29. A portion of her brief focuses on the loans for her house and new car. Both of those debts, which were addressed in the decision, were not alleged in the SOR. The Judge, however, noted, "Any derogatory information that was not alleged in the SOR will not be considered for disqualifying purposes, but may be considered in the application of mitigating conditions, in making a credibility determination, and in a whole-person analysis." Decision at 4-5. We find no error in the Judge's consideration of the house and car loans. *See*, *e.g.*, ISCR Case No. 15-07369 at 3 (App. Bd. Aug. 16, 2017) (setting forth the limited purposes for which non-alleged matters may be considered).

The remainder of Applicant's arguments amount to a disagreement with the Judge's weighing of the evidence. These arguments fail to demonstrate the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 21-01169 at 5 (App. Bd. May 13, 2022).

Applicant failed to establish that the Judge committed any harmful error or that he warrants any remedial action. 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 the interests of the national security." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* AG \P 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: Gregg A. Cervi Gregg A. Cervi Administrative Judge Member, Appeal Board

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