



**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: July 5, 2023

In the matter of:	)	
	)	
	)	
-----	)	ISCR Case No. 20-03167
	)	
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 November 23, 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 the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective Jun. 8, 2017) and DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 10, 2023, after the record closed, 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 alleges that Applicant has 13 delinquent debts: a Department of Defense debt of about \$26,000, ten Department of Education student loans totaling about \$63,000, a Department of Veterans Affairs debt of about \$1,400, and child support arrearages of about \$4,200. In responding to the SOR, Applicant admitted each of the Guideline F allegations, some with comments. Under Guideline E, it alleged that Applicant falsified two security clearance applications (SCAs) by failing to disclose that he had delinquent debts. In his SOR response,

Applicant admitted one falsification allegation with comments and denied the other by claiming he did not understand the questions. The Judge concluded that Applicant deliberately falsified his SCAs. The Judge found against Applicant on each of the SOR allegations but excepted specific debts from the falsification allegations. In general, she concluded that Applicant failed to present sufficient evidence to mitigate the security concerns arising from the SOR allegations.

On appeal, Applicant contends the Judge “was very rude and insulting. She would ask me a question and would cut me off when I try [sic] to answer. She also called me a thief during the hearing.” Appeal Brief at 1. We construe this assertion as a claim that the Judge was biased against him and that he was denied due process. This assignment of error is unpersuasive. There is a rebuttable presumption that a Judge is impartial and unbiased, and a party seeking to overcome that presumption has a heavy burden of persuasion. *See, e.g.*, ISCR Case No. 17-02391 at 2 (App. Bd. Aug. 7, 2018). We examined the entire record and Decision, paying particular attention to the transcript of the hearing. We find nothing therein that would cause a reasonable person to question the Judge’s impartiality in this case. The Judge’s comments and questions, while pointed and direct, appear to be efforts at hearing administration and to clarify Applicant’s testimony. *Id.* (quoting *Liteky v. United States*, 510 U.S. 540 at 555-556 (1994)) (“[E]xpressions of impatience, dissatisfaction, annoyance, even anger’ do not establish bias. ‘A judge’s ordinary effort at courtroom administration—even a stern and short-tempered judge’s ordinary efforts at courtroom administration—remain immune’.”). Applicant has neither rebutted the presumption that the Judge was unbiased nor established that he was denied any due process afforded him under the Directive.

The remainder of Applicant’s appeal brief consists of an explanation of his efforts to resolve the alleged debts. He does not specifically assert the Judge committed any error. To the extent that he is contending the Judge mis-weighed or did not consider record evidence, we find no merit in those assertions. None of his arguments are enough to rebut the presumption that the Judge considered all of the record evidence or 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 also asserts that he has lost a job due to the denial of his security clearance. The adverse impact of an unfavorable security clearance decision, however, is not a relevant consideration in evaluating clearance eligibility. *See, e.g.*, ISCR Case No. 19-02397 at 1-2 (App. Bd. May 6, 2020).

Applicant failed to establish that the Judge committed any harmful error. 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 national security.’” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also*, AG ¶ 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  
Chairperson, Appeal Board

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

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