



**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: September 20, 2023

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

ISCR Case No. 22-02025

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 January 17, 2023, DoD issued a 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 decision on the written record. On July 28, 2023, after considering the record, Defense Office of Hearings and Appeals Administrative Judge Gatha Manns denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30. For reasons stated below, we affirm the Judge’s decision.

The SOR alleged that Applicant had 12 delinquent debts totaling about \$117,000. In responding to the SOR, Applicant admitted 10 of the allegations and denied the remaining two totaling about 19,000. The Judge stated:

[Applicant] did not provide documentary evidence to support his case, nor did he explain the circumstances that led to his financial problems. He presented no

evidence to show his financial problems were incurred due to circumstances beyond his control. He did not provide information or evidence about his income, expenses, or other financial resources at his disposal. Nor did he provide information or evidence he received or is receiving financial counseling, and his financial problems are not under control. [Decision at 6.]

The Judge found in favor of Applicant on two alleged debts totaling about \$8,600 and against him on the other allegations, concluding there was insufficient evidence presented to show that he made a good-faith effort to pay his debts, that he acted responsibly under the circumstances, or that his financial problems will be resolved within a reasonable time.

On appeal, Applicant does not specifically assert that the Judge committed any harmful error. Rather, he states that he was deeply troubled by the lack of fairness and impartiality in the adjudication process, claiming that no effort was made to determine his military discharge status and arguing that circumstances beyond his control created his financial problems. He requests that his case be thoroughly reviewed and indicates that he is willing to provide additional documentation, including a current credit report and his DD-214 showing a medical retirement from the military. These assertions fail to establish the Judge committed any harmful error.

We first note that Applicant's SOR Response contains no documentation showing that he was taking action to resolve the alleged debts. On March 2, 2023, the Government's File of Relevant Material (FORM) was sent to Applicant, which included all of the documentary evidence the Government was submitting to the Judge for consideration. Applicant was provided 30 days from his receipt of the FORM to submit objections or matters in rebuttal, extenuation, mitigation, or explanation. He was informed that the Judge's decision would be "based solely on this FORM" unless he submitted additional information. FORM at 4. Applicant submitted no response to the FORM. If there were additional matters that Applicant wanted the Judge to consider beyond those contained in the FORM, he was responsible for providing that information. Based on our review of the record, we find no basis for concluding that Applicant was treated in an unfair manner or that he was denied any due process rights afforded him under the Directive. Finally, we note that the Appeal Board does not review cases *de novo*, and we are prohibited from receiving or considering new evidence on appeal. Directive ¶ E3.1.29.

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