

DATE: October 27, 2023

In the matter of:	)	
	)	
	)	
-----	)	ISCR Case No. 22-02216
	)	
Applicant for Security Clearance	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Christopher Snowden, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 13, 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 elected to have the Judge decide the case based on the record, including the Government’s file of relevant material (FORM) and Applicant’s response. On August 31, 2023, Defense Office of Hearings and Appeals Administrative Judge Carol G. Ricciardello denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30, challenging the Judge’s factual findings and her analysis of the evidence. Consistent with the following, we affirm.

The SOR alleged six delinquent debts totaling about \$21,000, including a charged-off credit-card account. The Judge found in favor of Applicant on the charged-off credit card account, and against him on the remaining five debts. In her analysis, the Judge concluded that Applicant failed to establish that there were clear indications that his financial problems were being resolved or were under control.

On appeal, Applicant's contention that the Judge failed to properly consider all available evidence is not supported by the record. The record reflects that the Judge thoroughly reviewed information submitted by Applicant in response to the interrogatories, SOR, and FORM, but found them lacking in detail which would convincingly show an adherence to good-faith efforts to repay overdue creditors or otherwise resolve debts.

Applicant's claim that the Judge failed to consider favorable evidence or extenuating circumstances in her decision is misplaced. The Judge noted Applicant's military service, divorces, health and COVID-related issues, education, business downturn, and his unemployment in her decision. Applicant's assertions appear to be additional argument challenging the Judge's interpretation and weight of the evidence. As we have explained before, there is a difference between errors in a judge's findings of fact and errors in the conclusions drawn therefrom. *See* ISCR Case No. 22-00822 at 3 (App. Bd. Jul. 5, 2023). Findings of fact must be supported by substantial evidence, while conclusions are reasonable inferences drawn from the evidence. *See* ISCR Case No. 18-00496 at 3 (App. Bd. Nov. 8, 2019), citing Directive ¶¶ E3.1.32.1 and E3.1.32.3.

To the extent that Applicant 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).

The Judge noted that the SOR debts were unpaid for years and correctly cited ISCR Case No. 16-01211 at 4 (App. Bd. May 30, 2018) for the proposition that waiting until a clearance is in jeopardy before resolving debts shows an applicant may be lacking in judgement expected of those with access to classified information. Decision at 9. It is also well established that an applicant's ongoing, unpaid debts demonstrate a continuing course of conduct and can be viewed as recent for purposes of the Guideline F mitigating conditions. *See, e.g.*, ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 2017).

Applicant also contends that the Judge mischaracterized the evidence by concluding that Applicant closed his business to pursue his educational goals and did not consider Applicant's divorce at the same time. The Judge's finding is partly based on Applicant's statement in his SCA where he said he "closed business down and pursued education." FORM Item 3 at 18. He did not disclose the delinquent business loan in his SCA. The Judge also acknowledged his divorce and other factors that may have impacted his finances but found his failure to show good-faith efforts to repay creditors or otherwise resolve his debts to be a critical factor in denying mitigating credit. Applicant finally agreed to a repayment plan for the business loan in June 2023 despite knowledge of it in September 2022. Applicant Exhibit B; FORM Item 4 at 1. He also failed to provide sufficient evidence of resolution of the remaining debts. Decision at 8. The Board has held that until an applicant has a meaningful financial track record, it cannot be said as a matter of law that he has initiated a good-faith effort to repay overdue creditors or otherwise resolved debts. The phrase "meaningful track record" necessarily includes evidence of actual debt reduction through payment on debts. *See, e.g.*, ISCR Case No. 05-01920 at 5 (App. Bd. Mar. 1, 2007).

Applicant failed to establish that the Judge committed any harmful error or that he should be granted any relief on appeal. 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: Gregg A. Cervi

Gregg A. Cervi  
Administrative Judge  
Member, Appeal Board

Signed: Allison Marie

Allison Marie  
Administrative Judge  
Member, Appeal Board