



**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: November 29, 2023

In the matter of:)	
)	
-----)	ISCR Case No. 21-02337
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Julie R. Mendez, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On April 21, 2022, 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 of Security Executive Agent Directive 4 (effective June 8, 2017) (AG) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On September 26, 2023, after the record closed, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Candace Le'i Garcia denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged four delinquent debts that totaled approximately \$28,600 and three security concerns regarding income taxes: a failure to timely file Federal income tax returns for tax years (TYs) 2012 through 2014, a failure to file Federal income tax returns for TYs 2015 through 2018, and a failure to file state income tax returns for TYs 2015 through 2020. The Judge found favorably for Applicant on the allegation that he failed to timely file his Federal returns for 2012 through 2014. Additionally, she found that Applicant had mitigated the security concerns regarding his failure to file Federal returns for TYs 2017 and 2018 and his failure to file state

returns for TYs 2015 through 2018. She found adversely to Applicant on the allegations that he failed to file state and Federal returns for the remaining tax years and found adversely on the four delinquent debts.

On appeal, Applicant made no assertion of harmful error on the part of the Judge. Instead, he requests reconsideration of the Judge's decision and provides additional information about his efforts to resolve the circumstances that led to his financial issues. The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive E3.1.29. The Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a security clearance is sustainable.

Order

The decision is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Gregg A. Cervi

Gregg A. Cervi
Administrative Judge
Member, Appeal Board