



**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: December 7, 2023

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

ISCR Case No. 23-00443

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 March 9, 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) of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On October 5, 2023, after the record closed, Defense Office of Hearings and Appeals Administrative Judge John Bayard Glendon denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged 13 delinquent debts that totaled approximately \$62,000. The Judge found favorably for Applicant on 10 smaller debts and adversely to Applicant on three large debts that total approximately \$59,000. On appeal, Applicant asserts that the Judge erred in finding that his debts raised disqualifying security concerns.

Applicant is in his early thirties. He married in 2013 and has a minor child from that relationship. Separated from his wife, Applicant and his cohabitant have recently had a child.

Applicant has not taken any steps to divorce his wife due to the legal costs. Applicant served in the military from 2009 through 2017. Following his honorable discharge, Applicant was unemployed for nine months before securing employment in August 2018.

Applicant's three debts of security concern arose during his transition from active duty and his separation from his wife. SOR ¶ 1.a alleges a charged-off balance of approximately \$36,000 on a vehicle that Applicant voluntarily relinquished after his discharge from service, when he could no longer afford the monthly payments. Under the mistaken impression that returning the vehicle would satisfy the debt, and despite receiving bills from the creditor following the repossession, Applicant became aware of the outstanding balance in 2021 during his security clearance process. He last spoke to the creditor in January 2023 and has been unsuccessful in negotiating a payment plan. When Applicant and his wife separated, he was a co-signor on both a rental lease for their apartment and a loan for her vehicle. His wife subsequently moved out of the apartment, breaking the lease, and stopped making payments on the vehicle, which was then repossessed. Those two delinquent debts are approximately \$4,500 (SOR ¶ 1.b) and \$17,300 (SOR ¶ 1.h), respectively. Applicant acknowledges his responsibility for the two debts but is reluctant to pay them until he and his wife determine who is ultimately responsible.

In determining that these three debts are not mitigated, the Judge wrote:

I have given significant weight to Applicant's service to the U.S. Government as a [servicemember] and as a government contractor. I have also given weight to the character evidence provided by Applicant and to the difficulties raised by his unemployment following his military discharge. However, his inaction regarding his three largest debts shows that he lacks the maturity for national security eligibility. He is not able or willing to face the difficult task of resolving his marital debts through a separation agreement or divorce. Similarly, he has not been willing to face the difficult task of resolving a large loan for a vehicle he voluntarily surrendered. [Decision at 8.]

In his appeal brief, Applicant does not challenge any of the Judge's specific findings of fact. Rather, he disagrees with the Judge's conclusion that his debts raise security concerns, arguing that he has demonstrated his willingness and ability to pay his debts and a history of meeting financial obligations. Applicant highlights his success at paying off the 10 alleged debts that were mitigated and his ongoing efforts to address the remaining three larger debts. The Judge, however, discussed the issues that Applicant now raises on appeal. None of Applicant's arguments are sufficient to rebut the presumption that the Judge considered all the evidence in the record nor are they enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 19-01400 at 2 (App. Bd. Jun. 3, 2020).

Applicant has not established that the Judge committed harmful error. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which is sustainable on this 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). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

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