

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

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		Date: December 18, 2023
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In the matter of:)	
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)	ISCR Case No. 23-00185
)	
Applicant for Security Clearance)	
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)	

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 February 14, 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 Jun. 8, 2017) and DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a decision based on the Government's File of Relevant Material (FORM) and his response to the FORM. On September 25, 2023, Defense Office of Hearings and Appeals Administrative Judge Philip J. Katauskas denied Applicant's security clearance eligibility. Applicant appealed pursuant to Directive ¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant had four delinquent Federal student loans. In responding to the SOR, Applicant admitted each allegation. The Judge found against Applicant on all the debts. In summarizing the decision, the Judge stated that Applicant's last student loan payments were in mid-2014. By the time a COVID-19 related pause in payments began in 2020, he had already been delinquent for six years. Despite use of a debt consolidation service to address unrelated delinquent accounts, Applicant failed to address his student loan debts, which accrued

after his wages were garnished for credit card debt. The alleged student loan debts are not mitigated. Decision at 5.

Applicant's appeal brief does not assert that the Judge committed any harmful error. Rather, it reargues the case that was raised in the FORM and discusses new evidence. Appeal Brief at 1. The Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

The Appeal Board does not review cases *de novo*. The Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Directive ¶ E3.1.32. Because Applicant has not alleged such a harmful error, the decision of the Judge denying Applicant security clearance eligibility is sustainable.

Order

The decision is **AFFIRMED**.

Signed: Moira Modzelewski Moira Modzelewski 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