



**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: January 22, 2024

In the matter of:)	
)	
----)	ISCR Case No. 23-00193
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Julie R. Mendez, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 6, 2023, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of 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 (Jan. 2, 1992, as amended) (Directive). On November 20, 2023, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant’s security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant is in his mid-40s. He is engaged to be married and has two children from previous relationships. From 2001 until he was laid off in 2009, he was employed by a government contractor. Applicant held various jobs between 2011 and 2022, at which time he became a full-time employee of a government contractor. He completed an application for a security clearance on May 12, 2022, and was granted an interim clearance which was withdrawn in February 2023 after issuance of the SOR, which alleged Applicant’s failure to file Federal and state tax returns from 2009 to 2021, as well as five delinquent medical account and personal loan debts. The Judge

found favorably for Applicant as to three of the delinquent debts and against him on the remaining allegations.

On appeal, Applicant made no assertion of harmful error on the part of the Judge and acknowledges that he is “appealing this case not so much because the Judge himself did something wrong.” Instead, he advocates for reconsideration of the Judge’s decision, largely on the basis that he was granted an interim clearance after disclosing the same financial problems ultimately alleged in the SOR. A decision to grant security clearance eligibility does not give the applicant any vested right or entitlement in keeping a security clearance, and a prior grant – even of an interim clearance – does not preclude the Federal Government from considering, at a future date, whether to continue that grant or to revoke it. *See, e.g.,* ISCR Case No. 20-03647 at 2 (App. Bd. Dec. 7, 2021).

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 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: James B. Norman

James B. Norman
Administrative Judge
Member, Appeal Board