

The Judge's Findings of Fact and Analysis

Applicant is in his early forties, has some college credits, and holds numerous information technology (IT) certifications. He married his current wife in 2022, and he is previously divorced and has two children with his former spouse. He has been employed by government contractors in various IT positions since 2007, except for periods of unemployment from March 2017 to July 2017 and August 2021 to October 2021. From March 2014 to November 2015, Applicant worked part-time while unsuccessfully attempting to start his own business. He has held a security clearance since 2009 and submitted his most recent security clearance application (SCA) on January 17, 2020. He attributes his delinquencies to his divorce, failed business, and periods of unemployment.

Applicant provided the Judge with evidence that the mortgage foreclosure alleged in SOR ¶ 1.a was resolved in 2015. Applicant also provided evidence that the debts alleged in SOR ¶¶ 1.c through 1.g were settled at various dates in 2021 and 2023. The Judge resolved each of those allegations in favor of Applicant despite concluding that AG ¶¶ 20(a), 20(b), and 20(d) were not fully established and that AG ¶ 20(c) was not established at all.

As to the allegation in SOR ¶ 1.b, Applicant maintained that he had entered into a settlement agreement and had made monthly payments. After the hearing, he presented a letter dated February 26, 2022, indicating that the balance had increased to \$26,662 and that he had authorized automatic \$100 monthly payments beginning in March 2022. He stated that the automatic withdrawals stopped in December 2022 and the debt dropped from his credit report. The Judge found against Applicant as to this account, concluding that Applicant had not made good faith efforts to address the debt.

Discussion

On appeal, Applicant contends that the Judge “demanded complete resolution of all debt” and gave “dispositive weight to the timing” of Applicant’s efforts. Appeal Brief at 3, 5. The Judge addressed each of Applicant’s debts and concluded that, while the efforts to settle them were sufficiently mitigating to resolve most of the specific debts, the majority of those efforts occurred after submitting his security clearance application and after addressing the debts with a government investigator. His favorable conclusion regarding the individual resolved debts did not preclude the Judge from weighing the manner in which Applicant addressed his SOR debts and the independent security significance of his remaining, largely unaddressed outstanding debt.

DOHA proceedings are not aimed at collecting an applicant’s debts. Rather, “a security clearance adjudication is designed to evaluate an applicant’s judgment, reliability and trustworthiness so that a sound decision is rendered.” ISCR Case No. 10-03020, 2011 WL 2937329 at *2 (App. Bd. Jun. 2, 2011). Turning first to the debts found in Applicant’s favor, the Judge concluded that, “[a]lthough [Applicant] subsequently resolved five of the six remaining SOR debts, he did so only after submitting a SCA in January 2020 and after discussing his financial issues with a government investigator.” Decision at 8. Even where an applicant has paid his debts,

a judge may still consider the circumstances underlying the debts for what they reveal about the applicant's security clearance worthiness. *See* ISCR Case No. 14-02394, 2015 WL 5184614 at *3 (App. Bd. Aug. 17, 2015). As part of his analysis of Applicant's overall financial history, the Judge correctly considered that the timing of debt payments is relevant in evaluating an applicant's case for mitigation, in that an applicant who waits until his clearance is in jeopardy before resolving debts might be lacking in the judgment expected of those with access to classified information. *See* ISCR Case No. 15-01070, 2016 WL 2843113 at *3 (App. Bd. Mar. 9, 2016). The presence of some favorable or mitigating evidence does not require the Judge to make an overall favorable determination in the face of disqualifying conduct such as Applicant's. *See* ISCR Case No. 01-07292, 2004 WL 794251 at *3 (App. Bd. Jan. 29, 2004).

With respect to SOR ¶ 1(b), the Judge concluded that Applicant ignored the remaining debt for many years as the delinquency grew from about \$17,000 to over \$26,000, that he made only a limited effort to address it in December 2021 when faced with the loss of his clearance, that he failed to provide documentation supporting any payments made pursuant to the agreement, and that he ceased participating in the payment plan in December 2022 with no further action. Decision at 8. Those findings are supported by the evidence and it was not error for the Judge to find that this did not constitute a good faith effort in addressing the debt to afford mitigation under AG ¶ 20(d). To receive full credit under AG ¶ 20(d), an applicant must initiate and adhere "to a good faith effort to repay overdue creditors or otherwise resolve debts." In the absence of a meaningful track record of repayments, it cannot reasonably be suggested that an applicant has initiated a good-faith effort to repay creditors or otherwise resolve debts. *See* ISCR Case No. 07-09304, 2008 WL 4917777 at *3 (App. Bd. Oct. 6, 2008). Nor did the Judge err in finding no mitigation under AG ¶ 20(a), noting that Applicant's multiple failed opportunities to provide corroborating documentation of his purported repayment efforts impugned his current reliability, trustworthiness, and good judgment.

To the extent that Applicant asserts that the Judge substituted an adverse credibility determination for record evidence, there is no factual basis for this assertion. There is no dispute as to the facts surrounding this debt and Applicant simply argues for a different weighing of the evidence.

We find that the Judge addressed Applicant's circumstances and debt resolution efforts in his decision and reasonably concluded that Applicant had not established a sufficient record of payments and responsible financial conduct. Applicant's "disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law." ISCR Case No. 06-17409, 2007 WL 4105312 at *2 (App. Bd. Oct. 12, 2007). Moreover, Applicant's arguments fail to rebut the presumption that the Judge considered all of the record evidence. The Judge's conclusion that Applicant failed to mitigate the financial security concerns is sustainable.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision 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