

Judge's Findings of Fact and Analysis

Applicant is in his mid-30s and has been employed by a defense contractor as a systems server engineer since December 2021. He married in 2013 and divorced in 2020. He has one child from this marriage. He graduated from high school in 2008. He has held a security clearance since 2012.

Between 2018 and 2022, Applicant accumulated nine delinquent accounts exceeding \$42,000. He attributed his debts to immaturity and the availability of excessive credit. He engaged a credit repair service who has helped him with creditor payoffs and removals of debts from his credit report with disputes. Applicant was able to document a debt payoff, a settlement offer, and duplicate SOR allegations, but his submissions contain no documentation showing his satisfaction of the remaining debts. Deletion of accounts from a credit report does not equate to proof that the debts were resolved by means of voluntary, good-faith payments or other agreed settlement arrangement between the parties.

The Judge held that without any documented evidence of Applicant's resolution of the bulk of his debts with payoffs and payment plans, except in two cases, or good cause demonstrated for why debts have not been resolved, no mitigating condition applies. Applicant's expressed commitments to address his still outstanding accounts with promised payments represent no more than promises to resolve his still outstanding debts and are not viable substitutes for a track record of paying debts in a timely manner and otherwise acting in a responsible way.

Discussion

In his appeal brief, Applicant claims that the Judge erred in certain factual findings with regard to his background, argues for reconsideration of certain efforts he has made to resolve debts, and includes additional evidence showing the current status of some debts.

In deciding whether the Judge's rulings or conclusions are erroneous, we will review the decision to determine whether: it does not examine relevant evidence; it fails to articulate a satisfactory explanation for its conclusions, including a rational connection between the facts found and the choice made; it does not consider relevant factors; it reflects a clear error of judgment; it fails to consider an important aspect of the case; it offers an explanation for the decision that runs contrary to the record evidence; or it is so implausible that it cannot be ascribed to a mere difference of opinion. ISCR Case No. 97-0435 at 3 (App. Bd. Jul. 14, 1998).

We agree that the Judge made factual errors in describing Applicant's background, including his age, marital status, and current position held. The Judge's confusion regarding certain background information, however, constitutes harmless error because it does not likely affect the outcome of the case. ISCR Case No. 19-01431 at 4 (App. Bd. Mar. 31, 2020).

Applicant next asserts the Judge erred by not giving a settlement offer letter appropriate weight, and that more time was needed to show progress in settlement of this and other accounts. He argues that evidence of certain debt resolution efforts was not available when he responded to

the Government's File of Relevant Material (FORM). Applicant offers new evidence in support of his assertions.

In part, Applicant is advocating for an alternative weighing of the evidence. 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 conclude that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *E.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). 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.

We have often stated that a security clearance adjudication is not a proceeding aimed at collecting an applicant's debts. Rather, it is a proceeding aimed at evaluating an applicant's judgment, reliability, and trustworthiness. *E.g.*, ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008). The scope of Guideline F encompasses not only an Applicant's current financial situation, but also extends to his or her financial history. As a general rule, an applicant is not required to be debt-free nor to develop a plan for paying off all debts immediately or simultaneously. *E.g.*, ISCR Case No. 09-08462 at 4 (App. Bd. May 31, 2011). However, an applicant must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008).

The Appeal Board has held that "it is reasonable for a Judge to expect applicants to present documentation about the satisfaction of specific debts." ISCR Case No. 09-07091 at 2 (App. Bd. Aug. 11, 2010). Moreover, intentions to resolve financial problems in the future are not a substitute for a track record of debt repayment or other responsible approaches. *E.g.*, ISCR Case No. 11-14570 at 3 (App. Bd. Oct. 23, 2013). An applicant who waits until his clearance is in jeopardy before resolving debts may be lacking in the judgment and self-discipline expected of those with access to classified information. *E.g.*, ISCR Case No. 16-01211 at 4 (App. Bd. May 30, 2018). Finally, with regard to additional or clarifying evidence presented on appeal, the Appeal Board is prohibited from considering new evidence on appeal and does not review cases *de novo*. Directive ¶ E3.1.29.

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: Gregg A. Cervi

Gregg A. Cervi
Administrative Judge
Member, Appeal Board

Signed: James B. Norman

James B. Norman
Administrative Judge
Member, Appeal Board