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: July 25, 2024

In the matter of:	)	
	)	
-----	)	ISCR Case No. 20-01126
	)	
Applicant for Security Clearance	)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT
Julie R. Mendez, Esq., Chief Department Counsel

FOR APPLICANT
Samir Nakhleh, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On July 8, 2022, 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). Applicant requested a hearing. On June 6, 2024, Defense Office of Hearings and Appeals Administrative Judge Nicole L. Noel denied Applicant's security clearance eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30. For reasons stated below, we affirm the Judge's decision.

Under Guideline F, the SOR alleged seven delinquent debts totaling approximately $28,500. The Judge found against Applicant on all allegations. On appeal, Applicant argues that the Administrative Judge's decision was arbitrary and capricious because it failed to consider certain facts in mitigation. Additionally, Applicant's Counsel suggests that Applicant emailed documents to the Judge or her office that were not considered in her decision. As discussed below, our review reveals no basis for either allegation, and we affirm the Judge's decision.

Turing to the first issue, Applicant argues that the Judge failed to consider the following "crucial facts": that Applicant had paid the debt alleged at SOR ¶ 1.c; that he resolved a second debt through efforts, albeit unsuccessful, to locate the proper creditor; and that Applicant is a "standout performer at work." Appeal Brief (AB) at 7. As the Judge noted in her decision, Applicant claimed to have paid the debt alleged in SOR ¶ 1.c, but he provided no documentation either at the hearing or post-hearing, although she kept the record open for over a month. Decision at 2. Similarly, Applicant provided no evidence regarding his work performance or his efforts to locate the creditor. This allegation is without merit.

Regarding the second issue, Applicant's Counsel does not raise the specter of missing evidence until the "Conclusion," section of his brief, in which he requests remand to "[e]nsure all evidence and documents submitted by [Applicant] via email to the DOHA agent are included in the record." AB at 8. With no further explanation, Counsel argues that "the case should be remanded to allow consideration of additional relevant evidence submitted by the originally *pro se* [Applicant]. *Id*. Counsel provides no details whatsoever about Applicant's submissions or a copy of what was purportedly emailed. An applicant must make a sufficient proffer as to whether there is a sufficient basis for the Board to remand the case or take other corrective action. Counsel's vague suggestion that Applicant emailed documents is not sufficient to establish a *prima facie* showing that Applicant actually submitted additional evidence or documents that were not included in the record. *E.g.*, ISCR Case No. 14-04959 at 2 (App. Bd. Apr. 6, 2016). Applicant has not established that he was denied the due process afforded by the Directive.

Applicant has failed to establish any harmful error below. The record supports a conclusion that 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 in ISCR Case No. 20-01126 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