



**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: August 22, 2024

_____)	
In the matter of:)	
)	
)	
-----)	ADP Case No. 23-01957
)	
Applicant for Public Trust Position)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a trustworthiness designation. On December 20, 2023, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision —trustworthiness 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). Applicant elected a decision based on the written record. On July 29, 2024, Defense Office of Hearings and Appeals Administrative Judge Phillip J. Katauskas denied Applicant’s request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged two delinquent consumer debts, one for approximately \$29,700 (SOR ¶ 1.a) and the other for approximately \$39,100 (SOR ¶ 1.b). The Judge found against Applicant on SOR ¶ 1.b and for her on SOR ¶ 1.a. The favorable finding is not in issue on appeal. On appeal, Applicant asserts that she made payment arrangements as soon as she was notified of the delinquent account; that the payments have been “consistently drafted from [her] account each

month”: and that she “submitted all documentation” to prove the same. Appeal Brief at 1. She requests reconsideration of the decision.

We interpret Applicant’s assertion to allege that the Judge erred in finding that she had failed to address this debt. When an administrative judge’s factual findings are challenged, the Board must determine whether the findings of fact are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record. Directive, E3.1.32.1. The Judge found that Applicant “did initiate what seemed to be good-faith efforts to repay overdue creditors” and that she “even had a payment schedule in place for SOR ¶ 1.b,” but that she “did not . . . follow through with those efforts.” Decision at 6. Our review of the record confirms that Applicant established a payment plan in November 2022 and that she reduced the debt to approximately \$34,100 by December 2023. However, as Department Counsel highlighted in the file of relevant material (FORM), the Government’s evidence indicated that Applicant stopped making monthly payments in December 2023. Prior to the FORM being submitted to the Judge, Applicant was provided a copy and the opportunity to submit additional material for the Judge’s consideration. She failed, however, to submit any matters in response. Contrary to Applicant’s argument, the record adequately supports the Judge’s conclusion that she did not continue her efforts to address the debt.

Applicant failed to establish that the Judge committed any harmful error or that she should be granted any relief on appeal. The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The Appeal Board does not review cases *de novo* and has no authority to reconsider the case. Directive E3.1.29. The decision is sustainable on this record. The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination “may be granted only when ‘clearly consistent with the interests of the national security.’”

ORDER

The decision in ADP Case No. 23-01957 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