



**DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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Date: December 30, 2024

In the matter of:

Applicant for Security Clearance

ISCR Case No. 23-02885

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 January 26, 2024, 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). On November 20, 2024, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant 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.

In Applicant's response to the SOR (Answer), he admitted all 13 alleged delinquent accounts with explanations and requested a decision based upon the written record in lieu of a hearing. Applicant submitted no documents with his Answer. In July 2024, Department Counsel submitted a file of relevant material (FORM) and provided a copy to Applicant, notifying him of the opportunity to respond with matters in extenuation, mitigation, or explanation. On August 22, 2024, Applicant provided a timely one-page response and attached four documents, which the Judge marked as Applicant Exhibits A through D. The Judge found favorably for Applicant on four delinquent accounts and adversely on nine.

On appeal, Applicant suggests that he submitted documents that were not considered, mentions that some debts have passed the statute of limitations, and argues that the Judge failed in his Whole Person analysis. As discussed below, our review reveals no basis for any of the three assertions, and we affirm the Judge's decision.

Turning to the first issue, Applicant obliquely refers to data that is "missing from the submitted response" and states that he is providing "those statements again in attempts to show that debts are being paid for debts that have been validated." Appeal Brief at 1. Applicant provides no substantive details about what he earlier submitted and when he submitted it or a copy of what was purportedly provided. With his appeal, Applicant provided statements that address four debts. Those statements, however, reflect payments through November 2024, months beyond the September 4, 2024, due date for submission of his response to the FORM. Indeed, some of the payments reflected in the documents post-date the Judge's decision. 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. Applicant's vague suggestion that he submitted additional 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. To the extent that the documents submitted constitute new evidence, the Appeal Board is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29.

The Judge's decision does not address any statute of limitations issues, as Applicant raises the issue for the first time on appeal. The Appeal Board, however, has consistently held that debts remain relevant for security clearance purposes even if they are no longer enforceable due to the running of the statute of limitations and that reliance on a state's statute of limitations does not constitute a good-faith effort to resolve financial difficulties. *E.g.*, ISCR Case No. 20-01618 at 3 (App. Bd. Sep. 29, 2022).

Applicant challenges the Judge's Whole Person analysis, but his arguments amount only to a disagreement with the Judge's weighing of the evidence. None of Applicant's arguments are sufficient to establish the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Directive ¶ E3.1.32.3.

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. 23-02885 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