

Applicant first argues that the Judge “overlooked pertinent exhibits” including Exhibits A, B, D, and E, which he contends demonstrate his debt resolution efforts and responsible action warranting a finding of mitigation. Appeal Brief at 4. To the extent that Applicant is arguing that the Judge either failed to consider these exhibits in their entirety or failed to afford them sufficient mitigating weight, both arguments are unpersuasive.

The identified exhibits pertain to two debts for which the Judge found adversely, including a utility account placed for collection for approximately \$4,400 (SOR ¶ 1.a) and an automobile loan charged off for approximately \$9,100 (SOR ¶ 1.g).¹ Although he disclosed neither debt on his security clearance application, Applicant discussed both during his July 2022 clearance interview, at which time he acknowledged his awareness of them and lack of resolution efforts to-date. Government Exhibit (GE) 5 at 2, 4. Still, Applicant took no action to resolve the debts until after his SOR was issued.

Turning first to the \$9,100 auto loan, the record reflects that Applicant contacted the creditor on January 11, 2024 – two days after the SOR was issued – and established a \$1,360 settlement to be paid in twelve monthly installments of about \$114. AE A.² With the exception of the one due in May, Applicant made payments as required beginning in January 2024. AE D at 3; AE E. In her decision, the Judge summarized the foregoing and found that the “debt is in the process of being paid.” Decision at 4.

With respect to the \$4,400 utility debt, the record reflects that the creditor extended Applicant an \$890 settlement offer on July 10, 2024. AE G. On or about August 13 – one week prior to the hearing in this matter – Applicant established a settlement to resolve the debt in two payments of about \$445, the first of which was paid on August 15, leaving the second due on September 13. AE B; AE F at 2. Here again, the Judge summarized this chronology and found that the “debt currently remains owing but is in the process of being paid.” Decision at 3.

Contrary to Applicant’s argument, the decision makes clear that the Judge considered Exhibits A, B, D, and E and the debt resolution efforts they revealed. She ultimately concluded, however, that despite his recent efforts at financial responsibility, Applicant failed to address his debt “until he was required to apply for a security clearance” and “he has not sufficiently resolved enough of his delinquent debt to demonstrate a sustained systematic method of payment.” Decision at 7. It is well settled that the timing of debt resolution efforts is an important factor in evaluating mitigation “because an applicant who begins to resolve financial problems only after being placed on notice that his clearance was in jeopardy may lack the judgment and self-discipline to follow rules and regulations over time or when there is no immediate threat to his own interests.” ISCR Case No. 15-06440 at 4 (App. Bd. Dec. 26, 2017). Here, despite knowing about them since at least July 2022, Applicant’s efforts to address the alleged debts began only after the SOR was issued. Not only did Applicant’s recent timing impact upon the degree to which his efforts were deemed

¹ Exhibit D also contains evidence supporting Applicant’s payment efforts for the \$540 consumer debt (SOR ¶ 1.d), which the Judge concluded was “resolved . . . in full” and found in Applicant’s favor. Decision at 3-4; Applicant Exhibit (AE) D at 2, 4.

² Although the Judge erroneously cited Exhibit A following her summary of the debt alleged at SOR ¶ 1.a, her summary of the debt alleged at SOR ¶ 1.g accurately includes the information reflected in Exhibit A and it is clear that the Judge considered the exhibit along with the correct debt.

voluntary (i.e., not driven by his security clearance process), but the recency also impacted upon his ability to establish a sufficient track record of repayment. The Board has held that until an applicant has a “meaningful financial track record,” it cannot be said “that he has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.” ISCR Case No. 01-21386 at 2 (App. Bd. Jun. 11, 2003). The Judge did not find that Applicant’s payments amounted to such a meaningful track record, and her conclusion that Applicant’s efforts were insufficient to fully mitigate the financial concerns is reasonable and sustainable.

Finally, Applicant challenges the Judge’s reference to a child custody case involving his non-biological son, which he contends is irrelevant to his eligibility for a security clearance and improperly implies “potential character concerns.” Appeal Brief at 5. In the factual findings portion of her decision, the Judge indeed summarized Applicant’s legal case, but only after first noting that “Applicant also still owes his attorney about \$1,500 in legal fees.” Decision at 4. There is no further mention of the custody case in the decision, and it appears that the Judge was simply explaining the basis for Applicant’s outstanding legal fees – another financial obligation that is properly considered in the full picture of Applicant’s outstanding debts and his ability to repay them. We find no error in this regard.

There is no presumption of error below and the appealing party has the burden of demonstrating that the judge committed factual or legal error. *See* ISCR Case No. 00-0050, 2001 WL 1044490 at *1 (App. Bd. Jul. 23, 2001). 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. Applicant has not established that the Judge committed harmful error. “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. 23-02854 is **AFFIRMED**.

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: James B. Norman
James B. Norman
Administrative Judge
Member, Appeal Board

Signed: Allison Marie
Allison Marie
Administrative Judge
Member, Appeal Board