



DEPARTMENT OF DEFENSE
DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS
APPEAL BOARD
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Date: July 14, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 24-02049

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 security clearance. On January 28, 2025, 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 May 2, 2025, after conducting a hearing, Defense Office of Hearings and Appeals Administrative Judge Caroline E. Heintzelman denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant had nine consumer debts (including a foreclosure in 2021) totaling over \$25,000; that his wages were garnished for a child support arrearage; and that he failed to file his state and federal income tax returns for tax years (TYs) 2022 and 2023. The Judge found that Applicant mitigated all of the Government’s concerns related to the consumer debts and his child support arrearage. However, she found that Applicant failed to mitigate the concerns raised by his failure to file his state and Federal income tax returns for TYs 2022 and 2023.

On appeal, Applicant claims that the Judge failed to give adequate weight to his testimony; that she did not properly evaluate the Whole-Person Concept; and that she failed to consider all appropriate mitigating factors.

A judge's decision can be arbitrary or capricious if: 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. *See* ISCR Case No. 95-0600, 1996 WL 480993 at *3 (App. Bd. May 16, 1996) (citing *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)). However, "[a]n analysis that merely is considered inadequate in the eyes of a party does not equate to an analysis that is arbitrary and capricious." ISCR Case No. 23-01559 at 2 (App. Bd. Sep. 16, 2024). "Unless a Judge's weighing of the record evidence is patently absurd, clearly illogical, or obviously unreasonable, the appealing party must present a cogent reason or argument as to how or why the Judge's weighing of the record evidence is arbitrary, capricious, or contrary to law." ISCR Case No. 03-05072 at 4 (App. Bd. Jul. 14, 2005). Here, the Judge applied the appropriate mitigating factors and conducted a robust Whole-Person analysis in finding all but two allegations in Applicant's favor. Our reading of the case file provides no reason to conclude that the Judge failed to consider the entirety of the evidence. The Judge cited to favorable evidence, including that Applicant's debts were caused by factors beyond his control, that he engaged a credit counseling service, that he was making payments, and that there were indications his delinquent debt was under control. Those factors led the Judge to resolve ten debts in Applicant's favor.

Applicant's brief advocates for an alternative weighing of the evidence under the applicable mitigating conditions and the Whole-Person Concept, but fails to demonstrate error. An applicant's "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 demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law." ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). Moreover, Applicant's arguments fail to rebut the presumption that the Judge considered all of the record evidence.

With respect to the two allegations resolved against Applicant, his failure to file state and federal income tax returns for TYs 2022 and 2023 suggests that he "has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information." ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). A clearance adjudication is a proceeding aimed at evaluating an applicant's judgment and reliability. It is not directed at collecting debts or inducing an applicant to file tax returns. *Id.* Here, the Judge noted that Applicant "made repeated promises in his SCA, interview with the government investigator, and answer to the SOR that he would resolve his outstanding tax filings . . . and as of the hearing he had not filed his TY 2022 and 2023 state and Federal tax returns." Decision at 7.

Applicant bears the burden of persuasion as to mitigation of the concerns raised by the SOR and evidenced in the file. Directive ¶ E3.1.15. We find no reason to disturb the Judge's

conclusion that Applicant had failed to meet his burden with respect to his tax filings. The decision is sustainable on this record. To the extent that he provides new details about his financial status in his appeal, the Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive ¶ E3.1.29. The decision of the Judge denying Applicant national security eligibility is sustainable.

Order

The decision in ISCR Case No. 24-02049 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer Goldstein

Jennifer Goldstein
Administrative Judge
Member, Appeal Board