

KEYWORD: Guideline F

DIGEST: There is no reason to question DOHA’s jurisdiction in this case, so the extent to which Applicant handles classified information is not relevant. Adverse decision affirmed.

CASENO: 12-08632.a1

DATE: 12/23/2015

DATE: December 23, 2015

In Re:)	
)	
-----)	ISCR Case No. 12-08632
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 10, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) of Department of

Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On September 30, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Francisco Mendez denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant served in the U.S. military for 22 years, during which he deployed in support of U.S. combat operations overseas. He retired in 2011, experiencing several months of unemployment until he secured a position with his current employer. Divorced, Applicant supports three children. Applicant has attributed his financial problems to his divorce. For example, he states that his ex-wife received rental income from a property they had bought while he was in the military but that she did not use the money to pay the mortgage. The property went into foreclosure. Applicant is responsible for this debt as a consequence of the divorce. He was asked about this debt during his clearance interview and later through interrogatories but has not spoken with the creditor since 2013.

Applicant has other, non-mortgage delinquent debts that total over \$25,000. Applicant claimed that he had resolved the debts but provided no corroboration. The Judge gave him three weeks after the hearing to submit additional evidence, but Applicant provided nothing. He has received no financial counseling. Applicant has about \$1,100 in discretionary income each month, and he plans to use it to resolve his financial problems.

The Judge's Analysis

The Judge stated that Applicant's financial problems were due, in part, to his divorce. However, the Judge concluded that Applicant had not shown responsible action in regard to his debts. He provided no evidence to substantiate a legitimate dispute over any of his debts, nor has he taken concrete action, to include financial counseling, to resolve his difficulties. In the whole-person analysis, the Judge noted Applicant's military service, his having previously held a clearance, and his support for his children. He concluded, however, that this was not enough to outweigh the concerns raised by his financial delinquencies.

Discussion

Applicant cites to evidence of his divorce and unemployment, circumstances that were outside his control that affected his financial situation. He also cites to his evidence about debt resolution. His arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-06093 at 3 (App. Bd. Dec. 4, 2015). Applicant states that he does not actually handle classified information in his job. However, he does not challenge his need for a clearance. Neither is there a reason to question DOHA's jurisdiction

over this case. Therefore, the extent to which Applicant actually handles classified information during the course of his job is not relevant. *See, e.g.*, ISCR Case No. 10-03656 at 3 (App. Bd. Jan. 19, 2011).

The Judge examined the relevant data 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). *See also* Directive, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

Signed: Michael Ra’anan

Michael Ra’anan
Administrative Judge
Chairperson, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board