

KEYWORD: Guideline F

DIGEST: Applicant has not rebutted the presumption that the Judge considered all the evidence. Adverse decision affirmed.

CASENO: 14-03722.a1

DATE: 12/11/2015

DATE: December 11, 2015

In Re:)
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-----) ISCR Case No. 14-03722
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)
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 October 30, 2014, 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 decision on the written record. On October 13, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley 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 from 1981 to 1987. He has worked for his current employer since 1995 and disclosed no periods of unemployment. Between 2008 and 2012, Applicant acquired 18 delinquent debts, totaling over \$25,000. Applicant stated that he had either paid these debts or had them removed from his credit reports. One of the debts was for a judgment that was satisfied through garnishment. Applicant turned over the remainder to a credit repair firm in order to dispute the debts. Applicant asserted that the firm was successful in having his debts removed from his credit reports, but he provided no independent evidence as to when or for what reason they were removed. The Judge concluded that, without such evidence, he could draw no inferences about the circumstances underlying Applicant’s financial situation. He also noted that Applicant did not provide documentary evidence of any extenuating circumstances that might have had an impact on his financial situation.

The Judge’s Analysis

The Judge stated that Applicant had presented no evidence of circumstances beyond his control that affected his financial problems, nor had he demonstrated that he had acted responsibly in regard to his debts. He stated that, without evidence of financial counseling or of steps taken to address his debts, “mitigation credit is very limited.” Decision at 5. In the whole-person analysis the Judge reiterated his comments about the paucity of mitigating evidence in the record.

Discussion

Applicant’s appeal includes evidence that was not contained in the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant’s brief cites to record evidence that his debts had been removed from his credit reports. The Judge made findings about this evidence and discussed it in his analysis of Applicant’s circumstances. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 12-08412 at 2 (App. Bd. Sep. 11, 2015). As the Judge noted, it is an applicant’s responsibility to present evidence in extenuation or mitigation. Moreover, the applicant bears the burden of persuasion. Decision at 4-5; Directive ¶ E3.1.15. In this case, the Judge’s conclusion that Applicant had failed to meet his burden of persuasion is supportable. Delinquent debts may cast doubt upon an applicant’s judgment, self control, and other characteristics essential to protecting national

security information. Directive, Enclosure 2 ¶ 18; *See also* ISCR Case No. 14-01479 at 2 (App. Bd. Sep. 2, 2015). Debts can be dropped from credit reports for a number of reasons. Evidence that debts are no longer listed on credit reports, in and of itself, may be entitled to minimal weight in the absence of further evidence that the debts have actually been paid or settled, that they are not legitimately the applicant's, that they arose from causes outside the applicant's control and that he acted responsibly, or other circumstances that demonstrate good judgment, self-control, etc. *See, e.g.*, ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015).

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