

KEYWORD: Guideline F

DIGEST: The Judge's explanation follows rationally from his findings of fact. Adverse decision affirmed.

CASENO: 07-02411.a1

DATE: 05/05/2008

DATE: May 5, 2008

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In Re: )	
)	
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)	
)	
Applicant for Security Clearance )	
_____ )	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Richard A. Stevens, Esq., Department Counsel

**FOR APPLICANT**

Annie P. Briscoe, Esq.

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On July 11, 2007, DOHA 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 January 18, 2008, after the hearing, Administrative Judge Marc E. Curry denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge erred in his application of the Guideline F mitigating conditions; whether the Judge’s whole person analysis is erroneous; and whether the Judge used the proper standard in deciding Applicant’s case. Finding no error, we affirm.

The Judge made the following findings of fact: Applicant is a high school graduate who has taken some college courses over the years. He is a veteran of the U.S. Air Force, having served from 1991 through his honorable discharge in 2004. His decision to leave the Air Force was prompted by a 2003 driving under the influence of alcohol (DUI) conviction. Shortly after leaving the Air Force, Applicant began struggling financially.

By late 2006, he had accrued approximately \$40,000 of delinquent debt, including among other things, \$1,300 in delinquent court fines stemming from the 2003 DUI, \$3,700 in delinquent child support payments, \$3,500 in eviction and miscellaneous property rental dispute fees, \$25,000 on two delinquent car notes, and \$2,100 in delinquencies related to a time-share property purchased before he left the Air Force. Applicant provided no documentation to support his claim that he was making efforts to pay off his debts. He has never attended debt counseling, and all of the delinquencies remain outstanding.

The Board has considered Applicant’s claims of error. The Judge utilized the correct standard in evaluating Applicant’s case. Furthermore, the Judge’s decision articulates “a satisfactory explanation for [his] conclusions, including a rational connection between the facts found” and his adverse decision, both as to the application of Guideline F mitigating conditions as well as the whole-person analysis.<sup>1</sup> See ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). The record supports the Judge’s conclusion that Applicant has not met his burden of persuasion that it is “clearly consistent with the national interest” for him to have a clearance. Decision at 5. See *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988); Directive ¶ E3.1.25. Accordingly, the Board concludes that the Judge’s decision is not arbitrary, capricious, or contrary to law.

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<sup>1</sup>For example, the Judge considered Financial Considerations Mitigating Condition 20(b), which mitigates security concerns when the financial problems arose from causes outside the applicant’s control. The Judge concluded that Applicant’s having voluntarily left the Air Force following an incident of DUI is not a matter that was outside his control, and Applicant had not acted responsibly in addressing his debts. Decision at 4.

**Order**

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board