

KEYWORD: Guideline F; Guideline E

DIGEST: The Judge found that Applicant had delinquent debts to at least nine different creditors totaling approximately \$52,000 and that Applicant had deliberately falsified a security clearance application. Adverse decision affirmed.

CASENO: 07-05036.a1

DATE: 05/23/2008

DATE: May 23, 2008

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In Re:)	
)	
-----)	ISCR Case No. 07-05036
)	
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On July 18, 2007, DOHA issued a statement of reasons (SOR) advising Applicant of the

basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On January 30, 2008, after the hearing, Administrative Judge Darlene Lokey-Anderson 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 issue on appeal: whether the Judge’s adverse decision is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge found that Applicant had delinquent and outstanding debts to at least nine different creditors totaling approximately \$52,000. Applicant had been unsuccessful in setting up a debt repayment plan or obtaining a debt consolidation loan. At the time of hearing, he had saved \$3,600 for the purpose of debt payment and had paid one of the outstanding debts. Decision at 2-3. The Judge also found that Applicant had deliberately falsified his security clearance application (SCA) when in response to the questions as to whether he had debts that had been delinquent more than 90 and 180 days respectively, or any judgements against him, he answered “no.” Decision at 3-4.

Once a concern arises regarding an Applicant’s security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. *See* Directive ¶ E3.1.15. “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).

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for his decision, “including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). Accordingly, the Judge’s ultimate unfavorable security clearance decision under Guidelines F and E is sustainable.

Order

The Judge’s adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra’anan

Michael Y. Ra’anan

Administrative Judge

Chairman, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

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