

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant had numerous delinquent debts. In addition, she provided inconsistent explanations for her false answers on the security clearance application. Adverse decision affirmed.

CASENO: 07-06852.a1

DATE: 10/01/2008

DATE: October 1, 2008

In Re:)	
)	
-----)	ISCR Case No. 07-06852
)	
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 October 28, 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 decision on the written record. On June 11, 2008, after considering the record, Administrative Judge Joseph Testan 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 certain of the Judge's findings of fact were supported by substantial record evidence. We also construe Applicant's appeal as asserting that the Judge's decision is arbitrary, capricious, and contrary to law. Finding no error, we affirm.

The Judge found that Applicant had numerous delinquent debts, which included two judgements rendered against her in favor of creditors. The total amount of the debts is nearly \$8,000.00. In July 2006, while filling out her security clearance application (SCA), Applicant provided false information in response to three questions. These questions asked about debts delinquent over 180 days, debts delinquent over 90 days, and unpaid judgements. She answered "no" to each of these questions, which was false as to each. She stated to a government investigator that she did so because of concern over "repercussions from her job supervisor and/or security officer." Decision at 2. In her response to the SOR, she gave a different explanation for the false answers, that she had hurried through the SCA, because she believed the government was already aware of her debts, and because she thought she had mentioned the debts on the SCA. The Judge stated in a footnote that her SCA contained no reference to her debts. He also found that in 1999, in completing a prior SCA, Applicant had denied having financial problems when, in fact, she had numerous delinquent debts, including unpaid judgments.

We have examined the Judge's decision in light of the record as a whole. The Judge's material findings of security concern are supported by substantial record evidence. *See* Directive ¶ E3.1.32.1. (Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.") In support of her appeal, Applicant submitted new evidence not contained in the record, which the Board cannot consider. "No new evidence shall be received or considered by the Appeal Board." Directive ¶ E3.1.29. Furthermore, the Judge has drawn a rational connection between the facts found and his ultimate adverse security clearance decision. *See* ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). *See also 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)). The Judge's decision that "it is not clearly consistent with national security to grant [A]pplicant eligibility for a security clearance" is sustainable on this record. Decision at 6. *See Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael D. Hipple
Michael D. Hipple
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