

KEYWORD: Guideline F

DIGEST: Applicant failed to demonstrate that she is making a reasonable effort to address her delinquent debts. Two of the debts on the SOR were holdovers from a previous DOHA adjudication. Adverse decision affirmed.

CASENO: 08-01642.a1

DATE: 07/07/2010

DATE: July 7, 2010

In Re:)	
)	
-----)	ISCR Case No. 08-01642
)	
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 August 20, 2009, 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 April 20, 2010, after the hearing, Administrative Judge Marc E. Curry denied Applicant’s request for a security clearance. Applicant appealed 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 mitigating conditions and whether the Judge's adverse decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is employed by a Defense contractor. A widow, she has three children. She had financial difficulties following her husband's death in the late 1990s. As a consequence, DOHA issued her a SOR in the early 2000s. She went to a hearing, and the Judge issued a favorable decision, based in part upon her promises to pay her delinquent debts.

In the mid 2000s, Applicant experienced seven months of unemployment. She filed for Chapter 13 bankruptcy protection, but the court dismissed the petition due to her failure to make consistent payments.

Applicant currently has about \$86,000 worth of delinquent debts. Though he acknowledged that her financial problems were affected by circumstances outside her control, such as unemployment, the Judge concluded that she had failed to demonstrate consistent monthly payments toward discharging her debts. He also noted that two of her delinquencies were at issue in her earlier DOHA case, despite her promises at that time to pay them. He concluded that Applicant had failed to mitigate the security concerns in her case.

Applicant deserves credit for trying to earn a college degree while working and raising children. However, she has too much outstanding debt and offered too little proof that she is satisfying it for me to conclude it no longer constitutes a security concern, given the amount that remains outstanding. Upon considering Applicant's case in the context of the whole-person concept, I conclude that her application for a security clearance must be denied. Decision at 6.

After reviewing the record, we conclude that the Judge examined the relevant data and articulated a satisfactory explanation for the 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)). The Judge's adverse 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).

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairperson, 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