

KEYWORD: Guideline F

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

CASENO: 10-03329.a1

DATE: 02/03/2012

DATE: February 3, 2012

In Re:)
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-----) ISCR Case No. 10-03329
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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 Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On May 27, 2011, 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). On July 21, 2011, DOHA amended the SOR to include three additional Guideline F allegations. Applicant requested a hearing. On November 16, 2011, after the hearing, Administrative Judge Noreen A. Lynch 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 security clearance decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge made the following pertinent findings of fact: Applicant worked for a state government agency for 31 years, but she retired in 2007 in order to care for her ill mother who was no longer financially able to stay in a nursing home.

In 2000, Applicant and her mother purchased a home in both of their names. In 2007, her mother refinanced. Applicant's name was not on the loan which resulted from the refinancing, due to her reduction in income. Applicant's mother fell behind in the payments, and, after the mother died, Applicant made no payments though she remained in the home. In 2009, the mortgage company initiated foreclosure proceedings. Applicant believes that she has no obligation to pay, because her name is not on the mortgage. She joined in a class action lawsuit challenging the foreclosure as unlawful. This lawsuit was dismissed with prejudice in the month preceding the hearing.

Applicant's retirement income is not sufficient to cover her bills, and, as a consequence, she has some delinquent debts. She has not been able to find permanent employment, and she has not received financial counseling. Her limited income does not permit her to formulate a debt consolidation plan, and she does not want to file for bankruptcy. Applicant volunteers her time for many worthy causes. She enjoys an excellent reputation for honesty and reliability.

In the Analysis, the Judge noted Applicant's work history and that she incurred financial difficulties when she retired early in order to care for her mother. However, the Judge noted the absence of financial counseling. She also concluded that Applicant had not provided sufficient evidence that her debts are being resolved. Because "[a]ll doubts must be resolved in favor of the government," (Decision at 6), the Judge denied Applicant a clearance. *See* Directive, Enclosure 2 ¶ 2(b).

Applicant contends that the Judge either did not consider, or that she mis-weighed, the evidence, citing, among other things, to her efforts to obtain employment and to the circumstances surrounding the class action lawsuit. However, considering the Decision in light of the record, we conclude that Applicant has not rebutted the presumption that the Judge considered all of the evidence. *See, e.g.*, ISCR Case No. 04-12742 at 3 (App. Bd. Feb. 25, 2011).

The record supports a conclusion 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). *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 Judge’s adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairperson, Appeal Board

Signed: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

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