

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 4, 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). Applicant requested a hearing. On September 12, 2012, after the hearing, Administrative Judge Martin H. Mogul 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’s decision.

The Judge made the following findings pertinent to the issue raised on appeal: Applicant works for a Defense contractor. Married with two children, she holds a B.A. degree in management.

Applicant has significant delinquent, unpaid debts, for such things as student loans, medical expenses, cell phone service, a judgement against her, etc. The SOR alleged 26 debts, and the Judge amended the SOR to include another. These debts accumulated over a number of years, many of them due to her husband’s periods of unemployment or under-employment. During these periods she was the sole provider for the family. She herself experienced job layoffs during most of the 1990s. She enjoys a good reputation for her trustworthiness and has received certificates of appreciation from her employer.

In the Analysis, the Judge noted evidence of Applicant’s and her husband’s unemployment, which were circumstances beyond Applicant’s control. He also credited her with paying off many of the debts alleged in the SOR and with making arrangements for paying others. He resolved twelve of the SOR debts in Applicant’s favor. However, he noted that a number of her debts had been settled only after the hearing, despite their having been overdue for many years. Therefore, he could not extend favorable application of mitigating condition 20(b) to the remainder of Applicant’s debts.¹ The Judge also concluded that he could not extend favorable application of mitigating condition 20(d),² given the recency of Applicant’s efforts to resolve debts that had been long overdue. He stated that her dilatoriness in resolving her debts left him with significant doubts as to her suitability for a security clearance.

Applicant cites to evidence of her debt payments and to her circumstances, including her and her husband’s employment difficulties. A Judge is presumed to have considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 11-01027 at 3 (App. Bd. Jul. 9, 2012). The Judge made

¹Directive, Enclosure 2 ¶ 20(b): “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances[.]”

²Directive, Enclosure 2 ¶ 20(d): “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts[.]”

findings concerning these matters and discussed them in the Analysis. However, his explanation for his adverse decision—Applicant’s failure to address her debts until relatively recently—is reasonable, given his extensive unchallenged findings. Applicant has not rebutted the presumption that the Judge considered all of the record evidence.

Applicant raises SOR ¶ 1.aa. The Judge entered a formal finding in Applicant’s favor regarding this paragraph. The Judge’s finding renders moot Applicant’s appeal arguments on this issue. *See* ISCR Case No. 00-0277 (App. Bd. May 9, 2001).

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 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