

KEYWORD: Guideline F

DIGEST: Applicant has offered nothing to corroborate his claim that he submitted additional documents for the Judge’s consideration. Under such circumstances, the Board finds no reason to remand the case. Adverse decision affirmed.

CASENO: 11-06839.a1

DATE: 04/30/2013

DATE: April 30, 2013

In Re:)	
)	
-----)	ISCR Case No. 11-06839
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On June 5, 2012, DoD 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 January 30, 2013, after the close of the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Arthur E. Marshall, Jr. denied Applicant's request for a security clearance. Applicant appealed, pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issue on appeal: whether there are grounds for ordering a remand to allow the Judge to consider documents Applicant claims he submitted. For the following reasons, the Board affirms the Judge's unfavorable security clearance decision.

The Judge found that Applicant has substantial delinquent debt. The 31 debts in the SOR, which range from \$38 to \$8,805, amount to approximately \$47,010. Applicant asserts that he had paid many of them, and was working on a settlement for others. Applicant submitted no documentary evidence regarding any of the admitted debts, nor did he submit any materials regarding refuted accounts. The Judge concluded that a serious automobile accident and related recuperative time in 2007-2008 was a source of financial distress and contributed to Applicant's financial problems. However, while it was Applicant's position that he paid the majority of debts at issue, there was no documentary evidence showing that any of the debts had been paid, put into repayment, disputed, or otherwise addressed. Without such documentary evidence, it could not be concluded that significant progress has been made on the debts at issue. The Judge denied Applicant a security clearance.

Applicant does not claim error on the part of the Judge. He does assert that he mailed documents to Department Counsel after the hearing, and had the Judge considered those documents, he would have ruled in Applicant's favor. Applicant submitted eleven documents with his appeal brief, which implicitly are the same documents he states he submitted earlier. However, two of the documents are dated March 4, 2013, which is after the date of the Judge's decision and could not have been part of a purported timely submission.

The Judge's decision contains a narrative of events concerning the receipt of post-hearing documents from Applicant, some of which are corroborated by the hearing transcript, and some of which are corroborated by a series of e-mails between Applicant and Department Counsel placed in the blue administrative folder portion of the case file. Applicant offered no documents at the hearing. He was given until November 8, 2012 to submit materials for consideration. On November 8, 2012, Applicant requested an extension of time, and was granted an extension until November 20, 2012. A second extension was granted giving Applicant until November 26, 2012. On December 3, 2012, Applicant contacted Department Counsel to inquire as to whether she had received materials he stated were mailed on November 26, 2012. Department Counsel responded that no materials had been received. She subsequently advised Applicant that no materials had been received as of December 11, 2012. On January 7, 2013, the Judge learned from Department Counsel that no mailing had ever been received from Applicant, and that there had been no contact with Applicant since December 7, 2012. The Judge then closed the record.

We have, in the past, remanded cases to the appropriate Judges for consideration of documents that applicants had submitted but which were not incorporated into the records. However, a review of the decision, the record, and Applicant's brief and attachments does not present an adequate basis to remand the case. *Compare, e.g.*, ADP Case No. 09-02670 at 2 (App.

Bd. Jan 20, 2011). Furthermore, in this case, Applicant has offered nothing to corroborate his claim that he had submitted additional documents. Under such circumstances, the Board finds no reason to remand the case. *See, e.g.*, ISCR Case No. 10-09433 at 2 (App. Bd. Jul. 2, 2012). The eleven documents attached to Applicant's appeal brief will not be considered, as they constitute new evidence. *See* Directive ¶ E3.1.29.

Order

The decision of the Judge is AFFIRMED.

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