

KEYWORD: Guideline B; Guideline F

DIGEST: The Judge’s material findings capture the essential facts that a reasonable person would expect to be addressed based upon this record. The Judge’s findings are supported by “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.” Adverse decision affirmed.

CASE NO: 14-02548.a1

DATE: 07/19/2016

DATE: July 19, 2016

In Re: ----- Applicant for Security Clearance))))))))	ISCR Case No. 14-02548
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APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Gregory F. Greiner, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On November 7, 2014, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline B (Foreign Influence) and Guideline F (Financial Considerations) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 12, 2016, after the hearing, Defense Office of Hearings and

Appeals (DOHA) Administrative Judge Michael H. Leonard 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's findings of fact were supported by substantial record evidence and whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. The Judge's favorable findings under Guideline B are not at issue in this appeal. Consistent with the following, we affirm.

The Judge's Findings of Fact

The Judge made the following findings pertinent to the issues raised on appeal: Applicant's SOR alleged 13 delinquent debts, for such things as credit card accounts, medical expenses, judgments, etc. His problems were affected by a divorce and by a period of unemployment. Applicant filed twice for Chapter 13 bankruptcy protection, but both were dismissed. Applicant is working with a mortgage counselor to improve his credit-worthiness. Applicant has paid other, non-alleged, accounts and has sold a car in order to pay down debt. The Judge found that all of Applicant's SOR debts were unresolved. He stated that Applicant's claims to have resolved some of them or that some were duplicates of others were not corroborated.

The Judge's Analysis

The Judge concluded that Applicant's financial problems constitute warning signs of financial distress and instability. Though noting circumstances outside Applicant's control that affected his finances, the Judge concluded that Applicant had not shown responsible action. He stated that Applicant has not made progress in repaying his creditors, nor does he have a "a realistic payment plan" in place. Decision at 11. He found that, on the whole, there are no clear indications that Applicant's financial problems are under control.

Discussion

Applicant challenges the Judge's findings of fact, arguing, among other things, that the Judge did not address his efforts at debt reduction, his adverse circumstances, and his disputes of certain debts. The Judge made findings about many of the things that Applicant addresses in his appeal brief. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-05795 at 2 (App. Bd. Apr. 26, 2016). A Judge is not required to discuss every piece of evidence, which would be an impossibility. *See, e.g.*, ISCR Case No. 12-01500 at 3 (App. Bd. Aug. 25, 2015). The Judge's material findings capture the essential facts that a reasonable person would expect to be addressed based upon this record. The Judge's findings are supported by "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." Directive ¶ E3.1.32.1.

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The 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 Decision is **AFFIRMED**.

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

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

Signed: James F. Duffy _____
James F. Duffy
Administrative Judge
Member, Appeal Board