

KEYWORD: Guideline F

DIGEST: Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither is his disagreement with the Judge’s weighing of the evidence sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 14-03133.a1

DATE: 04/08/2015

DATE: April 8, 2015

In Re:	)	
	)	
-----	)	ISCR Case No. 14-03133
	)	
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 August 20, 2014, 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 20, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA)

Administrative Judge James F. Duffy 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant works for a Defense contractor, having begun his employment in 2013. He served in the U.S. military from 2002 to 2012. Applicant was married to his previous wife from 2005 to 2008, with whom he had a child. He has two other children from his current marriage. Applicant has held a security clearance from 2001 until 2011 without incident.

Applicant's SOR contains a single allegation, that he has a child support arrearage in the amount of nearly \$21,000. Applicant attributed this problem to the ten months of unemployment he experienced after leaving he military. He stated that he was in the process of hiring an attorney to assist him in resolving the issue.

While Applicant was in the military, he was the subject of a proceeding to determine if he should be retained on active duty. Upon the advice of a Judge Advocate, Applicant waived his entitlement to an administrative board, submitting a "resignation in lieu of elimination." Decision at 3. Applicant had planned to join the National Guard but learned that his resignation made him ineligible. He is seeking a correction to his military records to enable him to serve in the Guard.

At the hearing, Applicant admitted that he had not been making his monthly child support payments. He estimated his arrearage at about \$36,000. He stated that he does not have a good relationship with his ex-wife and that the two have virtually no contact with each other. Although he has not formally retained the lawyer with whom he has spoken, this person did advise Applicant to set aside some money for child support payments.

While he was in the military, Applicant deployed to an overseas location for a year. He believes that this led to the breakup of his marriage, although he had separated from his wife prior to his deployment. In the military, Applicant was earning about \$91,000 annually. He currently makes around \$52,000 and his wife earns about \$24,000.

Applicant enjoys an excellent reputation for his honesty, dedication, and work ethic. He submitted a number of letters supporting his effort to join the National Guard. He received a commendation medal and campaign med while in the military, along with other personal and unit decorations.

### **The Judge's Analysis**

The Judge found Applicant's child support delinquencies to be "ongoing and significant." *Id.* at 6. Though noting Applicant's unemployment, which was a circumstance outside his control, the Judge concluded that Applicant had not acted responsibly in regard to his debt. He stated, "[Applicant] has taken no meaningful steps to resolve this financial problem since obtaining his current job. He has failed to show that his financial problems are being resolved and will not recur." *Id.* The Judge cited to Applicant's character references and other evidence favorable to him but concluded that this evidence was outweighed by his lack to attention to his child support obligations. Accordingly, the Judge concluded that Applicant had not mitigated the security concern arising from his child support debt.

### **Discussion**

Applicant cites to his favorable evidence, arguing that the Judge did not consider it. He disagrees with the weight that the Judge assigned to his child support difficulties relative to his character evidence. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither is his disagreement with the Judge's weighing of the evidence sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-00631 at 2-3 (App. Bd. Feb. 13, 2015). Applicant argues that without a clearance he will not be able to keep his job. However, we are not permitted to consider the impact that an adverse decision may have upon an applicant. *See, e.g.*, ISCR Case No. 13-00546 at 3 (App. Bd. Dec. 2, 2013). The Judge's 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: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody\_\_\_\_\_

James E. Moody

Administrative Judge

Member, Appeal BoardKEYWORD: Guideline F