

KEYWORD: Guideline F; Guideline G

DIGEST: The Judge made detailed findings about Applicant's financial problems as well as his difficulties with alcohol and discussed the evidence in her analysis. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 14-04719.a1

DATE: 04/06/2016

DATE: April 6, 2016

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In Re: )  
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Applicant for Security Clearance )  
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ISCR Case No. 14-04719

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

John Adamson, Personal Representative

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 13, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline G (Alcohol Consumption) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On January 21, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Elizabeth M. Matchinski 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 has worked for a Defense contractor for several years. Her served in the U.S. military from 1982 to 2002, during which time he held a clearance.

Applicant failed to file Federal income tax returns for tax years 2010 through 2013 and state income tax returns for tax years 2008 through 2013. He attributed these failures to his not having received the forms necessary to complete his returns. In addition, Applicant has delinquent debts for credit cards, etc. He has been making some payments toward his debts, including debts that were not alleged in the SOR. Applicant has been making payments of \$600 a month on behalf of his daughter, who lives with his ex-spouse.

Applicant has had problems with alcohol. While in the military he received non-judicial punishment for drinking before duty and for DUI. After leaving active duty he had two DUIs. His drinking increased to the point at which he consumed five to seven drinks each night. In 2013, Applicant underwent three days of detoxification, after which he received treatment for alcohol dependence. This treatment included twelve-step groups, anger management, relapse prevention, etc. Applicant was abstinent while taking part in the program. He returned to work after this treatment but relapsed after about nine months. He finally stopped drinking after his employer asked him to submit to a breathalyzer test, which he refused to do. He resumed attendance at Alcoholics Anonymous (AA). He attends meetings daily and is actively involved in his daughter’s life. He was estranged from his son for many years but has resumed contact with him.

### **The Judge’s Analysis**

The Judge concluded that Applicant had not mitigated the Guideline F concerns, citing to what she termed “a pattern of persistent noncompliance with his [F]ederal and state income tax filing and payment obligations.” Decision at 10. She stated that he did not evidence responsible action in regard to his financial obligations, although she did enter a favorable finding concerning one consumer credit debt of under \$400. Concerning Guideline G, the Judge noted Applicant’s disciplinary history in the military, as well as his subsequent DUI offenses. She stated that, after he

completed his treatment program he had a favorable prognosis. However, she cited to his relapse into six months of alcohol consumption and to an absence of a current prognosis by a licensed professional as militating against a conclusion that Applicant had demonstrated rehabilitation. In the whole-person analysis, the Judge stated that Applicant's relapse illustrates the extent of his alcohol dependency. She also stated that Applicant took no action prior to the hearing to file appropriate withholding documents and concluded that his circumstances evidenced complacency regarding his financial obligations.

### **Discussion**

Applicant cites to evidence that he made payments to the IRS and has filed tax withholding forms for the state. He argues that he is addressing his delinquent debts. Applicant notes evidence that he has obtained a sponsor and is working on the twelve steps associated with AA. He also argues that by the time of the hearing he had been sober for ten months. Applicant's arguments amount to a disagreement with the Judge's weighing of the evidence. However, that is not enough 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. 14-06440 at 4 (App. Bd. Jan. 8, 2016). The Judge made detailed findings about Applicant's financial problems as well as his difficulties with alcohol and discussed the evidence in her analysis. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.,* ISCR Case No. 14-06093 at 3 (App. Bd. Dec. 4, 2015).

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: William S. Fields  
William S. Fields  
Administrative Judge

Member, Appeal Board

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

James E. Moody

Administrative Judge

Member, Appeal Board