

KEYWORD: Guideline F

DIGEST: Applicant cites to documentary evidence, arguing that he has demonstrated mitigation. In DOHA proceedings, applicants bear the burden of persuasion. Although Applicant presented some evidence, the Judge's overall conclusion that he had not met his burden of persuasion is supportable based on the total record. A person who fails repeatedly to fulfill legal obligations, such as paying taxes, providing child support, and addressing other debts in a reasonable manner, does not demonstrate the high degree of reliability required of those granted access to classified information. Adverse decision affirmed.

CASENO: 14-04926.a1

DATE: 12/20/2016

DATE: December 20, 2016

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In Re:	)	
	)	
-----	)	ISCR Case No. 14-04926
	)	
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 April 20, 2015, 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 decision on the written record. On September 22, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.<sup>1</sup>

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 his current employer since 2012. He experienced about eight months of unemployment prior to that. His SOR alleges Federal income tax delinquencies of over \$30,000. He made payment arrangements with the IRS in 2012 but failed to follow through. The next year, the IRS garnished his wages. It is not clear from the record how much of his tax debt he has paid, although Applicant’s installment agreement shows that he still owes nearly \$12,000.

In addition, Applicant’s SOR lists several judgments against him, as well as debts for medical services and utilities. Applicant is in arrears for child support payments for over \$3,000. Although his wages have been garnished, Applicant did not provide documents to show how much he has paid in child support.

**The Judge’s Analysis**

The Judge cited to a paucity of record evidence concerning the circumstances underlying Applicant’s financial problems and his efforts to resolve them. Though noting events outside of Applicant’s control that affected his finances, the Judge concluded that Applicant had not demonstrated responsible action in regard to his debts.

**Discussion**

Applicant cites to his documentary evidence, arguing that he has demonstrated mitigation. In a DOHA proceeding, the applicant bears the burden of persuasion that he or she should have a security clearance. Directive ¶ E3.1.15. Although Applicant presented some evidence in his Answer to the SOR and Response to the File of Relevant Material (FORM), the Judge’s overall

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<sup>1</sup>We received Applicant’s brief on November 7, 2016. He submitted a second brief on November 28, 2016. The Directive authorizes only one brief from each party. *See, e.g.*, ISCR Case No. 11-09245 at 2, note 1 (App. Bd. Jul. 8, 2014). Therefore, we cannot consider the second brief.

conclusion that he had not met his burden of persuasion is supportable based on this record. A person who fails repeatedly to fulfill legal obligations, such as paying taxes, providing child support, and addressing other debts in a reasonable manner, does not demonstrate the high degree of reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, including the documents that he submitted in his Response to the FORM. Neither has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-05795 at 2, 3 (App. Bd. Apr. 26, 2016).

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 Y. Ra’anan  
Michael Y. 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