

KEYWORD: Guideline F

DIGEST: The Judge’s finding that there was a paucity of mitigating evidence is consistent with the record. Adverse decision affirmed.

CASENO: 14-05074.a1

DATE: 02/05/2016

DATE: February 5, 2015

In Re:)	
)	
-----)	ISCR Case No. 14-05074
)	
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 March 28, 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 December 7, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert E. Coacher 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 Federal contractor since 2002. His SOR lists seven delinquent debts, that total \$109,000. The largest of these is a mortgage account. The debts are supported by Applicant's admissions and by his credit reports.

The mortgage debt is past-due in the amount of over \$84,000. Applicant asserts that his ex-wife was to make the payments. He has since moved back into the house and is seeking a loan modification. He has provided no documentary evidence of a modification agreement, payment, or a payment plan. Applicant has denied several of the debts, although they remain on his credit reports. He provided no evidence of payment, payment plans, or reasons to dispute the validity of the debts. He provided no information about his current financial status, budget, or if he has received counseling.

The Judge's Analysis

The Judge stated that Applicant's debts are recent and unresolved. Applicant provided no evidence that would establish mitigation, such as that the debts arose from circumstances outside his control, that any of them had been paid, that he had received counseling, or that he had a basis to dispute them.

Discussion

Applicant asserts that some of the Judge's findings are in error. He states that his mortgage account has been transferred to another institution and that he has resolved a debt owed to a credit union, matters that he referenced, although briefly, in his reply to the SOR. He also states that he has a modification agreement. Applicant has attached to his brief documents that are not included in the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. We have examined the Judge's findings in light of the record as a whole. We conclude that they are based on substantial record evidence. Applicant has not identified any harmful error likely to change the outcome of the case. Considering the record evidence as a whole, the Judge's material findings of security concern are sustainable. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The Judge's finding that there was a paucity of evidence in mitigation was consistent with the record before him. This lack of evidence supported his conclusion that Applicant had failed to meet his burden of persuasion as to mitigation. *See* ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015) (A paucity of evidence showing how debts were incurred and what steps the applicant took to resolve them supported the Judge's adverse 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: Jeffrey D. Billett
Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

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