

KEYWORD: Guideline F; Guideline E

DIGEST: The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. Applicant has not identified any harmful error likely to change the outcome of the case. Adverse decision affirmed.

CASE NO: 14-06127.a1

DATE: 11/08/2016

DATE: November 8, 2016

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 14-06127
---	---------------------------------	------------------------

**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 September 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 E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. Department Counsel withdrew the sole Guideline E allegation at the hearing. On August 9, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Marc E. Curry 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm the Judge's unfavorable clearance decision.

Under Guideline F, the SOR alleged that Applicant had 21 delinquent debts totaling about \$53,000. The Judge found that Applicant's financial problems were caused by a lengthy period of unemployment and that she satisfied three of the debts and made a payment under a settlement agreement for another debt. He noted that she plans to begin paying other debts once she is hired by her prospective employer and that her mother will also lend her \$20,000 to satisfy the debts. He concluded that she deserves credit for taking the initiative to resolve her debts despite her unemployment, but it was too early to determine that her financial problems are under control in light of the amount of her delinquencies and the conditional nature of her payment plan.

In the appeal brief, Applicant asserts that she testified some of the debts were duplicates.<sup>1</sup> The Judge did not make any findings about duplicate debts. At the hearing, she testified that the debt in SOR ¶ 1.a was a duplicate, but did not identify which of the other three alleged debts from the same creditor was the duplicate. Transcript (Tr.) at 18. She testified that the debts in SOR ¶¶ 1.j and 1.m were duplicates (Tr. at 20), but these debts were from different credit card companies.<sup>2</sup> She also testified that the debt in SOR ¶ 1.b was a duplicate. Tr. at 30. The creditor cited in SOR ¶ 1.r is the creditor listed in SOR ¶ 1.b. An examination of Government Exhibit 3 supports a claim that SOR ¶¶ 1.b and 1.r are duplicate debts.<sup>3</sup> However, even if the Judge erred by failing to find certain alleged debts were duplicates, such an error was harmless given the amount of Applicant's other unresolved debt. *See, e.g.*, ISCR Case No. 08-07528 at 2 (Dec. 29, 2009). Of note, Applicant acknowledges in her appeal brief that she owes \$30,000 in delinquent debts.

In the appeal brief, Applicant also disputes that she has a history of delinquency, noting that unfortunate circumstances led to her having delinquent debts within the past three years. She further argues that she has made payment arrangements with creditors and provided supporting documentation. The Judge made finding about those matters. Her arguments, which amount to a disagreement with the Judge's weighing of the evidence, are not 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. 14-06634 at 2 (App. Bd. Apr. 28, 2016).

---

<sup>1</sup> In the brief, Applicant stated that she provided documentation (presumably about the duplicate debts) in an email on June 30, 2016. However, there is no email in the record with that date. We note the record of the proceeding remained open until July 2, 2016. In the decision, the Judge noted that he received a post-hearing submission from Applicant that he marked as Applicant's Exhibit (AE) G, which consists of 24 pages. While Page 1 of AE G is dated June 25, 2016, Page 10 is dated June 30, 2016, which shows that AE G was sent on or after June 30, 2016. Based on our examination of the record, we conclude that a *prima facie* case of a possible due process violation (*i.e.*, Applicant timely submitted documents that were not entered into the record) has not been established. *See, e.g.*, ISCR Case No. 15-02933 at 2 (App. Bd. Sep. 23, 2016).

<sup>2</sup> At the time, Applicant was testifying about the debts in their alphabetical order and may have meant the debts in SOR ¶¶ 1.l and 1.m were duplicates. While those debts are from the same creditor, they have different account numbers.

<sup>3</sup> In the past, the Appeal Board has held that, if duplicate debts are alleged in the SOR, an applicant should receive a favorable finding on at least one of those debts. *See, e.g.*, ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005).

Additionally, Applicant asserts that she has a contingent job offer and, if her security clearance is not granted, she will not be able to pay her bills. The Directive, however, does not permit the Appeal Board to consider the impact of an unfavorable decision on an applicant. *See, e.g.,* ISCR Case No. 14-04202 at 4 (App. Bd. Dec. 24, 2015).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. Applicant has not identified any harmful error likely to change the outcome of the case. 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