

KEYWORD: Guideline F

DIGEST: Applicant’s brief challenges the Judge’s weighing of the evidence, but given her sustainable findings about a lack of corroboration of Applicant’s debt payment claims, Applicant’s argument is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 14-06634.a1

DATE: 04/28/2016

DATE: April 28, 2016

In Re:)	
)	
-----)	ISCR Case No. 14-06634
)	
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 May 12, 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 hearing. On February 23, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA)

Administrative Judge Jennifer I. Goldstein 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 served 23 years in the military, retiring in 2008. He is married and has one child. His SOR lists several delinquent debts: a mortgage account that is past-due in the amount of a little over \$10,000; a collection account for nearly \$15,000 that Applicant contends resulted from an automobile repossession;¹ and other debts, such as cell phone services, a video game subscription, pest control services, etc. Applicant testified that he is renegotiating the mortgage loan. For the other debts, he claimed either to have resolved them or not to recognize them. Applicant produced no documentation to substantiate debt payments or disputes.

Applicant attributes his financial problems to the costs of a necessary home repair and to reduced income after he retired from the military. He received four weeks of financial counseling through his church.

The Judge's Analysis

The Judge noted circumstances outside Applicant's control that affected his financial condition: his home repairs and diminution in pay. However, she concluded that Applicant had not demonstrated responsible action in regard to his debts. She reiterated her findings that Applicant had not corroborated many of his claims regarding debt repayment. The Judge cited to Applicant's military service, which was evidence favorable to him. She went on to state, however, that Applicant's debts were incurred voluntarily yet he lacks the resources to resolve them. She stated that the record does not disclose clear indications that Applicant's problems are behind him.

Discussion

Much of Applicant's appeal brief asserts matters from outside the record, including documents that post-date the Judge's decision. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant cites to his efforts at addressing his debts, arguing that he has resolved all of the allegations in the SOR. However, Applicant has not undermined the Judge's findings about a paucity of corroborating evidence for his claims. She gave Applicant thirty days after the close of the hearing to provide such evidence, and she extended the deadline another two weeks at Applicant's request. However, he did not submit anything. Decision at 2. Applicant's brief challenges the Judge's weighing of the evidence, but, given her sustainable findings about a lack of corroboration, Applicant's argument is not enough to show that the Judge weighed the

¹Three credit reports, included in the record as Government Exhibits 2 - 4, describe this debt as a charge account.

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 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**.

Michael Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairperson, Appeal Board

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

James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board