

KEYWORD: Guideline F

DIGEST: A Judge should consider the circumstances underlying an applicant’s financial problems for what they reveal about the applicant’s judgment, self-control, etc. Adverse decision affirmed.

CASE NO: 14-06744.a1

DATE: 11/07/2016

DATE: November 7, 2016

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 14-06744
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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 July 24, 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 June 20, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert Robinson Gales 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 works for a Defense contractor. He served in the military from 1996 to 2001. He has held clearances since 2000. Applicant's SOR lists several delinquent debts. Three of them are liens for state taxes, and one is a lien for Federal taxes. Applicant claimed that he had entered into payment plans for his taxes, although he did not corroborate. Other debts are for two charged-off automobile loans (in the amounts of about \$23,000 and \$366) and another is for a credit card. As with the tax liens, Applicant did not corroborate his claims of efforts to resolve his debts. Applicant's problems were affected by a deployment overseas during which time tax was not being withheld from his income. They were also affected by the expiration of his student loan deferment and by his wife's unemployment.

Applicant did not furnish a recent financial statement. Previous information that he submitted concerning his financial situation was not accurate. The Judge found that it is difficult to determine if Applicant's finances are under control.

The Judge's Analysis

The Judge resolved some of the SOR allegations in Applicant's favor. However, for the tax liens, the automobile loans, and the credit card referenced above, he entered adverse findings. He concluded that Applicant's financial delinquencies were not infrequent. He stated that Applicant never explained why he did not at least pay the tax liens that were for small amounts and that Applicant had not provided sufficient information about his wife's unemployment to mitigate the concerns raised by the SOR. The Judge also cited to a paucity of evidence supporting Applicant's claims of efforts at debt resolution. He concluded that Applicant had not acted responsibly in regard to his financial problems.

Discussion

Applicant quotes the statement of concern regarding Guideline F. *See* Directive, Enclosure 2 ¶ 18. He denies that he is at risk of committing illegal acts to generate funds. However, the concern under Guideline F is not simply that an applicant might be tempted to compromise classified information in order to pay his debts. A Judge should also consider the extent to which an applicant's circumstances cast doubt upon his judgment, self control, and other characteristics essential to protecting national security information. *See, e.g.*, ISCR Case No. 12-09719 at 2-3 (App. Bd. Apr. 6, 2016). We find no error in the manner in which the Judge evaluated the concerns arising from Applicant's delinquent debts.

Applicant cites to his good security record and to evidence concerning the circumstances underlying his debts. In doing so, he includes evidence that was not contained in the record, including a document that post-dates the Judge's decision. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant has not rebutted the presumption that the Judge considered

all of the evidence in the record or shown that he mis-weighed the evidence. *See, e.g.*, ISCR Case No. 14-05795 at 2 (App. Bd. Apr. 26, 2016).

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. A person who fails to fulfill legal obligations, such as paying taxes, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.*, ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015). *See Cafeteria & Restaurant Workers Union Local 473 v. McElroy*, 284 F.2d 173, 183 (D.C. Cir. 1960), *aff'd*, 367 U.S. 886 (1961). 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: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, Appeal Board