

KEYWORD: Guideline F

DIGEST: Although the Judge may have erred in her findings about Applicant's personal information, it is likely that she would have rendered the same decision even if the errors had not been made. Therefore, the Judge's errors are harmless. Adverse decision affirmed.

CASENO: 15-01191.a1

DATE: 06/17/2016

DATE: June 17, 2016

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In Re:)	
)	
-----)	ISCR Case No. 15-01191
)	
)	
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 September 15, 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 April 14, 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge’s Findings of Fact and Analysis

Applicant is a 32-year-old employee of a defense contractor. He served in the military from 2002 to 2004 and achieved the grade of E-3. He attended some college, was divorced, and had one minor child.

Applicant had 13 delinquent debts totaling about \$20,000. None of the delinquent debts were resolved or formally disputed. He attributed his debts to his second ex-wife. He wanted to fix his credit, but did not know how to resolve the debts because creditors wanted more than he could afford on his limited income.

The Judge found Applicant had a history of indebtedness and was either unable or unwilling to address his delinquencies. The Judge concluded Applicant did not address his debts in a timely manner, and there were no clear indications that his financial problems were being resolved or were under control.

Discussion

Applicant contends that the Judge erred in making findings of fact about his personal information. First, he notes that the Judge found he had attended some college, while he states he has received a bachelor’s degree. His security clearance application (SCA) reflected that he had been attending college since 2001, but had not yet received a degree. At the hearing, he did not testify about his educational accomplishments. The record contains no information about him earning a bachelor’s degree. Next, Applicant points out the Judge found he served about two years in the military and achieved the grade of E-3; however, he actually served from 2002 to 2007 and achieved the grade of E-5. Of note, one page of his SCA reflected he served from 2002 to 2004 in the grade of E-3 in one military assignment, while another page reflected he served from 2004 to 2007 in the grade E-5 in a different assignment. He testified that he served 6½ years in the military. Tr. at 18. Finally, he notes that the Judge found he had one minor child, while he states that he has three minor children. In his SCA, he listed two children. Although the Judge may have erred in her findings about Applicant’s personal information, it is likely that she would have rendered the same decision

even if the errors had not been made. Therefore, the Judge’s errors are harmless. *See, e.g.*, ISCR Case No. 14-03601 at 3 (App. Bd. Jul. 1, 2015).

Applicant also argues that the Judge made the wrong decision because of inaccurate credit reports. In his appeal brief, he provided three credit reports, each of which is dated after the decision was issued. Despite his contention to the contrary, these credit reports constitute new evidence, which the Appeal Board cannot consider. *See* Directive ¶ E3.1.29. (“No new evidence shall be received or considered by the Appeal Board”). *See also* ISCR Case No. 14-03062 at 3 (App. Bd. Sep. 11, 2015). After reviewing the record, including the credit reports therein, the Board concludes that the Judge’s material findings about his debts are based on substantial evidence, or constitute reasonable characterizations or inferences that could be drawn from the record. 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 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