

KEYWORD: Guideline F

DIGEST: Applicant failed to rebut the presumption that the Judge considered all of the evidence. The Government need not wait until someone has failed to safeguard classified information before it can deny a clearance. Adverse decision affirmed.

CASE NO: 15-03334.a1

DATE: 09/20/2016

DATE: September 20, 2016

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 15-03334
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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 November 19, 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 30, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge considered all of the record evidence and whether the Judge’s decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant, who is 29 years old, began working for a Federal contractor in August 2014. She is not married and has no children. She was unemployed from August 2008 to September 2008, but has since been employed.

The SOR alleges 18 debts totaling about \$46,000, including about \$30,000 in student loans and an overpayment of about \$1,600 in unemployment benefits. Insufficient evidence was presented to conclude the student loans were delinquent. For one of the other alleged debts, a creditor accepted a settlement offer that consisted of 12 installment payments, and Applicant wrote that she made a payment in March 2016. She claimed she paid three other debts, but only provided documentary proof of payment for two of them. For another debt, she provide a copy of a settlement offer she sent to the creditor, but provided no other evidence concerning that debt. For the remaining debts, she indicated that she was negotiating settlements, attempting to contact collection agencies to make payment arrangements, or disputing the debt with the creditors or credit reporting bureaus, but did not provide corroborating evidence of those actions.

Applicant attributed her financial problems to a reduction in her working hours, moving out of her parents' house and living on her own, and costly car repairs. She had moved back in with her parents, found a new job, and was taking care of her financial difficulties. She was in the process of setting up financial counseling, but did not provide evidence that she followed through with the counseling.

The Judge's Analysis

The Judge found that Applicant had numerous debts that began accumulating in 2011 and remain unresolved. Applicant did not provide evidence of her current financial situation. There is insufficient evidence to conclude her financial problems are unlikely to recur or that she acted responsibly under the circumstances. She provided evidence that she paid a couple of small debts, was seeking to settle others, and was contacting creditors. Without additional evidence, there was not sufficient proof to conclude her financial problems were under control. In her whole-person analysis, the Judge noted that Applicant does not have a reliable financial track record and failed to meet her burden of persuasion.

Discussion

In the appeal brief, Applicant asserted that she believes the Judge failed to consider that she has been performing the duties of her position for two years without any breach of sensitive information and the Judge failed to take into account the steps she had taken to resolve her financial problems even though her income was decreased due to maternity leave. However, the Judge made findings about her employment history and the efforts she took to address the delinquent debts. Applicant's assertions are neither enough to rebut the presumption that the Judge considered all of the evidence in the record nor are they 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. 14-01284 at 3

(App. Bd. Apr. 6, 2015). It also merits noting that the government need not wait until an individual mishandles or fails to safeguard classified information before it can make an unfavorable security clearance decision. Even those with good prior records can encounter circumstances in which their judgment and reliability might be compromised. *See, e.g.*, ISCR Case No. 14-04648 at 3 (App. Bd. Sep. 9, 2015); *Adams v. Laird*, 420 F. 2d 230, 238-239 (D. C. Cir. 1969), *cert. denied* 397 U.S. 1039 (1970).

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**.

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