

KEYWORD: Guideline F

DIGEST: In his appeal brief, Applicant did not assert that the Judge committed any errors in the decision. Rather, Applicant argues that he has made a considerable effort to rectify his financial problems and developed habits that will ensure a sound financial future. His arguments essentially amount to a disagreement with the Judge’s weighing of the evidence and are not enough to show the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to the law. Adverse decision affirmed.

CASE NO: 15-03205.a1

DATE: 08/08/2016

DATE: August 8, 2016

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| In Re:                           | ) |                        |
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|                                  | ) | ISCR Case No. 15-03205 |
|                                  | ) |                        |
| 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 October 25, 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 May 25, 2016, after considering the record, Defense Office of Hearings

and Appeals (DOHA) Administrative Judge Francisco Mendez 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**

Applicant, who is in his later thirties, is married and has been working for his current employer since 2006. He has held a security clearance since 2011.

After the death of his grandmother who was paying half of his family's household expenses, Applicant left college to support his mother. At about the time that he obtained his current job, his mother filed Chapter 13 bankruptcy to save the family home from foreclosure. He helped his mother make the \$1,200 monthly bankruptcy payments until the bankruptcy was completed in about 2012.

Applicant did not file his Federal and state income tax returns from 2007 to 2011 and incurred a combined Federal and state tax debt for those years of about \$24,000. He also owes Federal taxes for 2012 and 2013. He stated that, after his mother's bankruptcy was completed, he entered into installment agreements to resolve his past-due state and Federal taxes. He submitted documents reflecting payments to the Internal Revenue Service (IRS), but did not submit documentation to corroborate his assertions that he was addressing his state taxes.

Applicant incurred a number of other past-due debts, including defaulting on student loans. Even though he provided documents detailing student loan payments under a repayment plan, the total balance of his student loans increased from about \$12,000 to about \$14,000. His Federal student loans remain in a collection status. He hopes to consolidate and rehabilitate his student loans in the near future.

Applicant claimed two judgments against him were paid and provided copies of cashier's checks from his mother's bank account. He claimed he paid another debt, but did not provide documentation.

### **The Judge's Analysis**

The Judge found in favor of Applicant on the two judgments. He Judge found against him on his failure to file Federal and state income tax returns from 2007 through 2011, his Federal and state tax debts, and four student loans.<sup>1</sup> The Judge gave Applicant credit for assisting his mother financially, but concluded his repeated failure to file or pay his taxes raised serious security concerns. Although Applicant contacted the IRS four years ago, his tax debt has remained about the same. He provided no documentation to corroborate his assertions about his state tax situation. The Judge determined that Applicant failed to meet his burden of persuasion.

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<sup>1</sup> The Judge did not make formal findings on the allegations in SOR ¶¶ 1.j and 1.k.

## Discussion

In his appeal brief, Applicant did not assert that the Judge committed any errors in the decision. Rather, Applicant argues that he has made a considerable effort to rectify his financial problems and developed habits that will ensure a sound financial future. His arguments essentially amount to a disagreement with the Judge's weighing of the evidence and are not enough to show the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to the law. *See, e.g.*, ISCR Case No. 14-04719 at 3 (App. Bd. Apr. 6, 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**.

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