

KEYWORD: Guideline F

DIGEST: Applicant failed to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASE NO: 15-04153.a1

DATE: 09/20/2016

DATE: September 20, 2016

In Re:)	
)	
-----)	ISCR Case No. 15-04153
)	
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 November 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 hearing. On June 20, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Shari Dam 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 weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant has two children from a former marriage. One of them lives with him, although there is no formal custody agreement. Applicant has a master's degree. He served in the military from 1986 to 2007, retiring as an E-6. He has worked for his current employer since 2013, earning \$92,000 a year. He was unemployed from November 2012 until July 2013.

Applicant's SOR lists several financial delinquencies. He failed to file his federal and state tax returns for 2010 through 2014. He owes nearly \$24,000 in unpaid child support, has a judgment against him for \$4,600 for rent owed a former landlord, and has two collection accounts for unpaid medical bills. In 2001, Applicant was discharged in Chapter 7 bankruptcy. He stated that he and his former wife were living beyond their means.

Applicant attributed his financial problems to procrastination. Although he contacted a tax assistance company to help him resolve his tax problems, he could not afford the required fee. He presented no workable plan for resolving his debts, nor did he provide a budget that would provide insight into his ability to resolve his debts and avoid future difficulties.

The Judge's Analysis

Applicant has acquired his delinquent debts after his 2001 bankruptcy discharge. He was unemployed for several months, but he did not provide sufficient evidence of responsible action. He provided no evidence of circumstances beyond his control that prevented him from filing his tax returns. He has received no credit counseling, nor has he shown that his financial problems are under control. He has not established a track record of financial responsibility. Applicant does not defend his irresponsibility, admitting that he failed to file his tax returns due to procrastination.

Discussion

Applicant states that many of his problems were out of his control. He also states that he is trying to have his child support reduced and that he is in the process of taking care of his tax returns. This argument is not enough to undermine the Judge's material findings of fact, nor 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. 14-06686 at 2 (App. Bd. Apr. 27, 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 Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairperson, Appeal Board

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

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board