

DATE: February 6, 2007

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-21309

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Braden M. Murphy, Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On May 6, 2005, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision--security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct), of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 25, 2006, after the hearing, Administrative Judge Robert J. Tuider denied Applicant's request for a security clearance. Applicant submitted a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Administrative Judge erred by finding that Applicant was over \$25,000 in debt and by finding that he had been convicted of forgery;⁽¹⁾ and whether the Administrative Judge's decision took into account Applicant's prior service to the nation and the fact that he has held security clearances in the past. The Board construes this second issue as challenging the sufficiency of the Judge's whole person analysis and his consideration of all the pertinent record evidence.

The Judge made the following findings: Applicant amassed 33 bad debts in an amount of \$25,534. Applicant presented no evidence to show that he had made "any recent effort to contact his creditors or otherwise resolve his debts" and that "Applicant has not sought any professional assistance in resolving his credit problems."

In September 2003, Applicant entered a plea of "no contest" to a charge of forgery for having attempted to convey a family member's mobile home to himself. Applicant was placed in a diversion program in which the conviction would be removed after three years. As of the date of the hearing, the three years had not expired.

The Board has examined the Judge's material findings, including those challenged on appeal, and concludes that they are supported by substantial evidence. *See* Directive ¶ E3.1.32.1. To the extent that Applicant's challenge to the Judge's findings is based upon new evidence submitted as part of his appeal, we have not considered it. "No new evidence shall be received or considered by the Appeal Board." Directive ¶ E3.1.29. *See also* ISCR Case No. 04-05268 at 2 (App. Bd. Apr. 4, 2006).

Regarding the second issue on appeal, the record provides no basis to conclude that Applicant was denied a meaningful whole person analysis. There is a rebuttable presumption that the Judge considered all the record evidence unless the

Judge states otherwise. ISCR Case No. 03-09445 at 3-4 (App. Bd. Apr. 25, 2005). We conclude that Applicant has not rebutted that presumption. Therefore, the Judge did not err in denying Applicant a clearance.

Order

The decision of the Administrative Judge denying Applicant a clearance is AFFIRMED.

Signed: Jean E. Smallin

Jean E. Smallin

Administrative Judge

Member, Appeal Board

Signed: William S. Fields

William S. Fields

Administrative Judge

Member, Appeal Board

Signed: James E. Moody

James E. Moody

Administrative Judge

Member, Appeal Board

1. The SOR alleges only that Applicant was charged with forgery, making no reference to conviction.