

Administrative Judge granted Applicant's request for a security clearance. Department Counsel appealed, and in a decision dated April 10, 2008, the Appeal Board remanded the case for a new decision. Because the original Judge was no longer employed by DOHA, the case was remanded to a new Judge. After a subsequent hearing, Administrative Judge Mark W. Harvey denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issue on appeal: whether the Judge's decision is arbitrary, capricious, or contrary to law. For the following reasons, the Board affirms the Judge's unfavorable decision.

Applicant essentially contends that the Judge's adverse decision should be reversed because the Judge did not give adequate weight to mitigating evidence and other favorable evidence about his efforts to rectify his ongoing financial problems. In support of his request, Applicant summarizes the favorable evidence he presented below. Applicant's argument does not demonstrate that the Judge's ultimate conclusions are in error.

The presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. *See, e.g.*, ISCR Case No. 06-10320 at 2 (App. Bd. Nov. 7, 2007). An applicant's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007).

In this case, the Judge found that Applicant has a history of debt delinquencies, including substantial federal income tax arrearages. The Judge also found that debt payments consume approximately half of Applicant's income, that Applicant and his wife spend consistently beyond their means, that their indebtedness is excessive, and that Applicant's negative cash flow is significant. While Applicant was current on all of his accounts at the close of the record, the Judge noted that his debt load continued to increase. In light of the foregoing, the Judge could reasonably conclude that Applicant's financial problems were still ongoing. *See, e.g.*, ISCR Case No. 05-07747 at 2 (App. Bd. Jul.3, 2007). The Board does not review a case *de novo*. After reviewing the record, the Board concludes that the Judge's ultimate unfavorable security clearance decision is sustainable.

Order

The decision of the Judge is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan
Administrative Judge
Chairman, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

Signed: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, Appeal Board