

Applicant raised the following issue on appeal: whether the Judge's adverse clearance decision is arbitrary, capricious or contrary to law.

Applicant argues that the Judge's adverse decision should be reversed because the Judge did not give sufficient weight to Applicant's mitigating evidence, which established that his financial problems were the result of circumstances beyond his control and that he is in the process of resolving those problems. Applicant has not demonstrated the Judge erred.

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 had a lengthy history of not meeting financial obligations. At the time the case was submitted for decision, Applicant still had a significant number of outstanding debts, and was still in the process of trying to resolve his financial problems.¹ In light of the foregoing, the Judge could reasonably conclude that those problems were still ongoing. See, e.g., ISCR Case No. 05-07747 at 2 (App. Bd. Jul. 3, 2007). The Judge weighed the mitigating evidence offered by Applicant against the length and seriousness of the disqualifying conduct and considered the possible application of relevant conditions and factors. He reasonably explained why the mitigating evidence was insufficient to overcome the government's security concerns. The Board does not review a case *de novo*. The favorable evidence cited by Applicant is not sufficient to demonstrate the Judge's decision is arbitrary, capricious, or contrary to law. See, e.g., ISCR Case No. 06-11172 at 3 (App. Bd. Sep. 4, 2007). After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for his decision, "including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). Therefore, the Judge's ultimate unfavorable security clearance decision under Guideline F is sustainable.

¹Applicant had thirteen delinquent debts. He had made no payments on his mortgage or delinquent debts since the last payment to his Chapter 13 bankruptcy plan in January or February 2008. He hoped to file for Chapter 7 bankruptcy, but had not done so at the time of the hearing. Decision at 3. Applicant requested at the hearing that the Judge delay adjudication pending resolution of the bankruptcy matter, which Applicant acknowledged might take months. The Judge denied Applicant's motion. On appeal, Applicant challenges the Judge's decision to deny his motion. Applicant has not demonstrated that the Judge's ruling was outside the scope of his discretion. Compare ISCR Case No. 06-24458 at 2 (App. Bd. Jan. 14, 2008).

Order

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

Signed: Michael Y. Ra'anan

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

Signed: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board