

KEYWORD: Guideline F

DIGEST: The Judge concluded that Applicant had not initiated good-faith efforts to pay off his delinquent debts. A Judge is presumed to have considered all the evidence unless the record demonstrates otherwise. Adverse decision affirmed.

CASE NO: 08-06438.a1

DATE: 08/04/2009

DATE: August 4, 2009

In Re:)	
)	
-----)	ISCR Case No. 08-06438
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On December 8, 2008, DOHA 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 May 27, 2009, after the hearing, Administrative Judge Darlene D. Lokey Anderson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge’s weighing of the evidence was erroneous and whether the Judge’s application of the pertinent mitigating conditions was erroneous. Finding no error, we affirm.

The Judge found that Applicant had significant delinquent debt, much of it for student loans. Although he has paid off two of his smaller debts, the Judge concluded that, at the close of the record, it was too early to determine if Applicant's efforts to address his financial problems "will be successful." Decision at 5. The Judge further stated that Applicant "has not initiated a prompt, good faith effort to repay his overdue creditors or otherwise resolve his debts." *Id.* at 6. As a consequence, the Judge concluded that Applicant had not mitigated the security concerns raised in his case.

Applicant contends that the Judge did not consider evidence which he believed was favorable to his case. A Judge is presumed to have considered all the evidence unless the record demonstrates otherwise. *See, e.g.*, ISCR Case No 07-00196 at 3 (App. Bd. Feb. 20, 2009); ISCR Case No. 07-00553 at 2 (App. Bd. May 23, 2008). The Board finds no basis to conclude that the Judge's weighing of the evidence was arbitrary, capricious, or contrary to law. *See* ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the 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)). The Judge's decision that "it is not clearly consistent with the national interests to grant or continue a security clearance for the Applicant" is sustainable on this record. Decision at 7. *See also Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) ("The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'").

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairman, 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