

KEYWORD: Guideline F

DIGEST: The Board cannot consider the new evidence submitted on appeal. Adverse decision affirmed.

CASENO: 09-06180.a1

DATE: 12/21/2010

DATE: December 21, 2010

In Re:)
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 -----) ISCR Case No. 09-06180
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)
 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 April 18, 2010, 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 decision on the written record. On October 1, 2010, after considering the record, Administrative Judge Arthur E. Marshall, Jr., 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's adverse security clearance decision is arbitrary, capricious, or contrary to law. Consistent with the following discussion, we affirm the decision of the Judge.

The Judge found that Applicant had delinquent debts arising from two student loans. These debts total nearly \$25,000. Additionally, Applicant had a delinquent debt of \$134 for medical services. Applicant failed to submit a reply to the file of relevant material. In the Analysis portion of the decision, the Judge noted the paucity of record evidence regarding the circumstances under which Applicant's debts became delinquent, efforts he had made to address the debts, and other possible mitigating circumstances, such as receipt of financial counseling.

In his brief, Applicant submits new evidence, concerning his medical debt and the reason his efforts to pay down the student loans were dilatory. We cannot consider this new evidence. *See* Directive ¶ E3.1.29. ("No new evidence shall be received or considered by the Appeal Board"). *See also, e.g.,* ISCR Case No. 08-05379 at 2 (App. Bd. Sep. 15, 2010).

The record supports a conclusion 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 adverse 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).

Order

The Judge's adverse security clearance decision is AFFIRMED.

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