

KEYWORD: Guideline F

DIGEST: A disagreement with the Judge’s weighing of the evidence is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. The Judge’s conclusion that Applicant had not demonstrated a track record of debt resolution sufficient to mitigate the concerns arising from his financial problems is sustainable. Adverse decision affirmed.

CASENO: 12-07001.a1

DATE: 05/16/2016

DATE: May 16, 2016

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In Re:)	
)	
-----.)	ISCR Case No. 12-07001
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 26, 2015, DoD 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 March 29, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Edward W. Loughran 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant served in the military from 1996 to 2002, after which he worked for Defense contractors. His current employer hired him in 2011. His financial problems originated in 2004 and 2005, due to his day-to-day living expenses. He stated that he was “young, stupid, and did not live within his means.” Decision at 2. He hired a bankruptcy attorney, who advised him to stop paying his bills because they would be covered in the bankruptcy plan. However, Applicant did not file, and his debts went unpaid.

The SOR alleges debts totaling about \$24,000. Applicant has paid two, that have a combined total of about \$700. The remainder are unresolved. The debts were for medical treatment, a loan for a truck, etc. After the hearing, Applicant submitted a plan to pay his debts. It requires him to pay over \$260 a month for seven years. In addition, Applicant showed that he had paid two debts that were not alleged in the SOR. Applicant has attended a financial counseling course and plans to take another one through his church.

The Judge’s Analysis

The Judge resolved in Applicant’s favor the two debts that he demonstrated that he had paid. However, he entered adverse findings for the remainder. He cited to DOHA precedent to the effect that promises to resolve debts in the future are not a substitute for a track record of debt resolution.¹ Although Applicant has a payment plan, he has not taken significant steps to implement the plan.

Discussion

Applicant’s brief, in essence, consists of a challenge to the manner in which he Judge weighed the evidence. However, a disagreement with the Judge’s weighing of the evidence is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-06440 at 4 (App. Bd. Jan. 8, 2016). The Judge’s

¹*See, e.g.*, ISCR Case No. 14-04565 at 2 (App. Bd. Sep. 18, 2015).

conclusion that Applicant had not demonstrated a track record of debt resolution sufficient to mitigate the concerns arising from his financial problems is sustainable.

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The 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). *See also* Directive, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.”

Order

The Decision is **AFFIRMED**.

Signed: Michael Ra’anan
Michael Ra’anan
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: James F Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board