

KEYWORD: Guideline F

DIGEST: Having chosen to represent herself, Applicant cannot fairly complain about the quality of her self-representation. There is no reason to conclude that Applicant was denied due process. Adverse decision affirmed.

CASENO: 14-00429.a1

DATE: 09/12/2014

DATE: September 12, 2014

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In Re: )	
)	
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)	
)	
Applicant for Security Clearance )	
_____ )	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James E. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 18, 2014, 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 decision on the written record. On July 23, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Francisco Mendez 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 she was denied due process and 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, during which time she held a security clearance. She received nonjudicial punishment (NJP) for DUI and another for battery, resulting in a reduction in rank. She was barred from reenlisting due to her misconduct. She has been employed as a Federal contractor since her discharge and has worked for her current employer since 2012.

Applicant has significant financial problems. They began when her commander reduced her in rank under the NJP. She became unable to pay her debts and defaulted on several of them. She provided evidence that she paid two of her debts at the time she completed her SCA and paid four other debts shortly before submitting her Answer to the SOR. She provided no information that she had disputed, settled, paid, or otherwise resolved any of her remaining SOR debts.

### **The Judge’s Analysis**

The Judge concluded that Applicant’s problems did not result from circumstances beyond her control, in light of evidence that they began when she was punished for misconduct. He also noted that her documentation shows that she took action regarding her debts at “critical junctures of her current security clearance review.” Decision at 5. She provided no documentation that she had taken action on her debts in the nine months between the submission of her SCA and her response to the SOR. He concluded that she had paid some minor debts solely for the purpose of gaining a clearance. He stated that he is not convinced that she will continue to manage her finances in a responsible manner once the clearance review process is over. He stated that she had submitted no evidence of financial counseling or that she had disputed any of her debts. Although noting Applicant’s military service, her prior experience in holding a clearance, and her candor in disclosing her debt problems, he concluded that she had not mitigated the concerns in her case.

### **Discussion**

Applicant points out that she was not represented by counsel or by some other person with knowledge of the clearance process. She states that she was not aware that she had to submit additional documentation. The record shows, however, that Department Counsel’s File of Relevant Material (FORM) advised her that she could submit a documentary response presenting matters in

rebuttal, extenuation, and mitigation. By letter accompanying the FORM, DOHA also advised Applicant of her right to submit “any material” she wished in response. Applicant did submit a letter, in which she stated that much of her effort at debt resolution took place over the phone. Therefore, she had nothing in writing to provide. The record shows that Applicant was given sufficient notice of her rights. Having chosen to represent herself, Applicant cannot fairly complain about the quality of her self-representation. *See, e.g.*, ISCR Case No. 11-08118 at 2-3 (App. Bd. Aug. 12, 2013). There is no reason to believe that Applicant was denied due process.

Applicant has challenged the Judge’s mitigation analysis. In doing so, she presents matters outside the record, which we cannot consider. *See, e.g.*, ISCR Case No. 08-05379 at 2 (App. Bd. Sep. 15, 2010). She points to evidence in the record of her payment of certain debts. However, she has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has she shown that the Judge mis-weighed the evidence. *See, e.g.*, ISCR Case No. 11-13984 at 3 (App. Bd. Feb. 20, 2014). The Judge’s findings about the timing of Applicant’s debt payments support his adverse decision. *Id.*

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: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board