

KEYWORD: Guideline F

DIGEST: Applicant has not rebutted the presumption that the Judge considered all the evidence. Adverse decision affirmed.

CASENO: 14-02158.a1

DATE: 03/21/2016

DATE: March 21, 2016

In Re:)
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 -----) ISCR Case No. 14-02158
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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 Department of Defense (DoD) declined to grant Applicant a security clearance. On October 15, 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 hearing.¹ On January 12, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge John Grattan Metz, 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant has worked for a Defense contractor since 2010. His security clearance was most recently renewed in August of that year.

Applicant's SOR alleges numerous delinquent debts, including various collection accounts, a past-due mortgage, medical bills, and other financial obligations. Several of Applicant's debts were satisfied through garnishment. His credit report shows that he paid other debts that were not alleged in the SOR. In addition, Applicant submitted documentary evidence along with his answer to the SOR that disclosed a state tax lien entered in September 2010. Applicant paid some of his debts after the hearing. One of the debts alleged in the SOR is a deficiency judgment from a foreclosure on a house. Applicant has had no contact with the creditor.

Applicant attributed his problems to a difficult separation from his wife and to financial assistance he has provided to his adult children. He also acknowledged that he has been in financial disarray for some time. The Judge found that Applicant had been indifferent to his problems and that his daughters prepared a plan for him which he has not acted upon. He has received no financial counseling, although after the hearing he submitted a statement of intent to hire a counselor and to pay off another creditor, a cell phone provider.

The Judge's Analysis

The Judge could not conclude that Applicant's financial problems were unlikely to recur, given evidence that these problems were the result of a lack of sophistication regarding money, along with an unwillingness to address the problems. He concluded that Applicant's problems were, on the whole, affected by circumstances that were within his control. Moreover, he stated that Applicant had not acted responsibly to resolve his debts. He stated that Applicant's "belated efforts" to pay some of his debts do not satisfy the Directive's requirement of good-faith. Decision at 5. He concluded that Applicant had not provided enough information to support a favorable whole-person analysis.

Discussion

¹Decision at 1.

Applicant does not deny that his finances have been poor for some time. He cites to evidence that he has held a clearance for many years without incident or concern. He states that it has been renewed several times in the past. However, a Judge must base his decision on the record that is before him. Prior decisions to grant or retain a clearance do not undermine the legal sufficiency of a Judge's subsequent adverse determination. *See, e.g.*, ISCR Case No. 12-00609 at 2, n. 2 (App. Bd. Apr. 4, 2014). The government need not wait until an individual mishandles or fails to safeguard classified information before it can make an unfavorable security clearance decision. Even those with good prior records can encounter circumstances in which their judgment and reliability might be compromised. *See, e.g.*, ISCR Case No. 14-04648 at 3 (App. Bd. Sep. 9, 2015); *Adams v. Laird*, 420 F. 2d 230, 238-239 (D. C. Cir. 1969), *cert. denied* 397 U.S. 1039 (1970). Applicant cites to other evidence, such as his problematic circumstances with his wife and to his service in the U.S. military. The Judge noted Applicant's evidence about his wife. However, his conclusion that Applicant's problems were, on the whole, the result of his own inattention is consistent with the record. Although the Judge did not mention Applicant's military service, a Judge is not required to discuss every piece of evidence, which would be an impossibility. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the case. *See, e.g.*, ISCR Case No. 14-06093 at 3 (App. Bd. Dec. 4, 2015).

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