

KEYWORD: Guideline F

DIGEST: The government is not precluded from making an adverse security clearance decision even where an Applicant had previous favorable decisions. Adverse decision affirmed.

CASENO: 14-02155.a1

DATE: 04/07/2015

DATE: April 7, 2015

_____)	
In Re:)	
)	
-----)	ISCR Case No. 14-02155
)	
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 July 10, 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. On February 2, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Martin H. Mogul 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 Air National Guard for 25, years, retiring in 2014. He has been employed by a Defense contractor since 2009. His SOR lists ten delinquent debts, for medical expenses, collection accounts, etc. The Judge found that Applicant had provided a credible reason to have disputed one of the debts. For the remainder, however, Applicant has either made no payments or has reduced the debts by minimal amounts of \$10 to \$20. He claims that his financial problems arose in connection with his wife’s medical expenses and her unemployment. Applicant also acknowledges that he has been a poor record keeper, which had an impact on his finances. He states that he moved more than once, and some of his bills did not get forwarded.

Applicant enjoys an excellent reputation for his work ethic and for honesty. His recent performance review rates him as “Consistently Exceeds Expectations.” Decision at 4. He also received several awards while in the Guard.

The Judge’s Analysis

The Judge resolved one of the allegations in Applicant’s favor, the collection account that he had disputed. For the remainder, however, the Judge concluded that Applicant had not mitigated the concerns raised thereby. He cited to circumstances outside Applicant’s control that affected his debts but concluded that Applicant had not acted in a responsible manner to resolve them. He stated that Applicant had only recently begun to address his financial problems and that the “vast majority of his debt [is] still outstanding.” Decision at 6.

Discussion

Applicant cites to record evidence that was favorable to him, such as his efforts to track down the proper owners of accounts that had been sold, his having held a clearance for many years, and his military service. His argument is not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 11-07094 at 2-3 (App. Bd. Sep. 5, 2014). Applicant notes that his financial problems had been addressed during a previous clearance adjudication. He contends that his difficulties are less severe now than they were during the earlier case. Accordingly, he argues that his current financial problems should not pose a barrier between him and his security clearance. We have previously noted that the Government is not

precluded from making an adverse decision despite previous favorable ones. *See, e.g.*, ISCR Case No. 11-07094, *supra*, at 3. In the case before us, the Judge’s findings about the extent of Applicant’s financial problems, the circumstances underlying them, and the dilatory nature of Applicant’s efforts to correct them support his adverse decision. Applicant contends that the Judge did not apply the whole-person concept “strongly enough.” Appeal Brief at 1. The Decision contains a brief section entitled “Whole-Person Concept.” Decision at 6-7. The Decision supports a conclusion that the Judge considered Applicant’s conduct and circumstances as a totality, thereby complying with Directive, Enclosure 2 ¶ 2(a). *See, e.g.*, ISCR Case No. 12-03077 at 2-3 (App. Bd. May 13, 2013).

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: Jeffrey D. Billett
Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

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