

KEYWORD: Guideline F; Guideline E

DIGEST: The Board does not agree with Applicant’s interpretation of the Judge’s comments regarding Applicant’s wife and their checking account. Adverse decision affirmed.

CASENO: 14-02791.a1

DATE: 02/13/2015

DATE: February 13, 2015

In Re:)	
)	
-----)	ISCR Case No. 14-02791
)	
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 16, 2014, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E

(Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Department Counsel requested a hearing. On December 9, 2014, 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. The Judge's favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm the decision.

The Judge's Findings of Fact

Applicant has worked for his current employer, a Defense contractor, since 2003. He retired from the U.S. military and is currently attending college. Applicant divorced his first wife, marrying his current one later the same year.

Applicant's SOR alleges several delinquent debts. The Judge found five against Applicant. Some of the debts found against Applicant had been reduced to judgment. The debts were based upon voluntary repossession of a vehicle, a loan for the construction of a swimming pool, medical bills, and bills for telecommunication services. Concerning one of the telecom debts, Applicant stated that he is negotiating a payment plan. However, he later stated that he was unaware of the debt.

Applicant contends that he is committed to resolving his delinquent debts. He stated that he had been unaware of the extent of his financial difficulties because both his previous wife and his current one handle the finances. The Judge noted that Applicant still has a joint checking account with his wife. Applicant finds the task of getting control over his finances to be "overwhelming," admitting that he did not "have it fully grasped as of yet." Decision at 5.

The Judge's Analysis

The Judge resolved a majority of Applicant's SOR debts in his favor. However, regarding the remaining five, he concluded that Applicant had not demonstrated mitigation. He noted evidence that Applicant still shared a checking account with his wife and that he was overwhelmed by the task of getting his finances in order. The Judge also stated that there was little evidence to show that Applicant had acted reasonably in regard to his debts and that his financial problems are ongoing. In the whole-person analysis, the Judge noted evidence of Applicant's military service and stable work history. However, he stated that Applicant "still has far to go" in resolving his difficulties. The Judge noted that Applicant had not corroborated his claims about debt repayment. *Id.* at 9.

Discussion

Applicant has submitted evidence about debt resolution that was not included in the record and, indeed, which post dates the Judge's decision. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant cites to record evidence about his efforts at debt resolution. His arguments are not sufficient to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-01669 at 3 (App. Bd. Jan. 29, 2015). Applicant disagrees with what he views as the Judge's recommendation that he drop his wife from the checking account. We note that the Judge never made that explicit recommendation, but he did note that Applicant's wife remains on the account. Insofar as Applicant had identified his wife's stewardship of the family finances as a contributing factor to their problems, it was not an error for the Judge to comment on it in his Analysis. We do not read the Decision as meaning that the Judge denied Applicant a clearance because his wife's name is still on the checking account. He appears to have denied the clearance because Applicant has shown no success in addressing his delinquent debts or their root causes.

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