

KEYWORD: Guideline F

DIGEST: Given the extent and ongoing nature of Applicant's debts, the Judge's adverse decision is sustainable. Adverse decision affirmed.

CASENO: 14-03570.a1

DATE: 05/12/2015

DATE: May 12, 2015

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In Re: )  
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 ----- ) ISCR Case No. 14-03570  
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 Applicant for Security Clearance )  
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**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 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) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 10, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Roger C. Wesley denied Applicant’s request for a security clearance. Applicant appealed, pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issue on appeal: whether the Judge’s decision is arbitrary, capricious, or contrary to law. For the following reasons, the Board affirms the Judge’s unfavorable security clearance decision.

The Judge found: Applicant is 34 years old. Following his discharge from the military in 2010, Applicant could not find work. Some of the time between 2012 and 2014, he held part-time positions. With limited income, he fell behind with his bills. He accumulated a state tax lien in the amount of \$308 and a judgment in the amount of \$4,095. Applicant also accumulated 11 delinquent consumer debts in an amount exceeding \$16,000. Applicant has not satisfied any of the debts. The only debt he has affirmatively addressed is the \$4,095 judgment. He made \$100 per month payments toward the judgment and has reduced the balance to \$3,000. After promising to address his remaining creditors during an interview with a government investigator in May 2014, Applicant has not been able to make payments or complete any repayment plans with the other creditors. He states that he wants to repay his debts, but cannot do so until he returns to work. Applicant currently earns nothing from gainful employment and is surviving with his education loans. His wife is able to supplement his income with a part-time job that nets \$1,031 bi-weekly.

The Judge concluded: Most of Applicant’s debts are the result of extenuating circumstances. His recurrent incidences of unemployment and underemployment following his 2010 discharge from the military imposed considerable cost burdens on himself and his wife. However, too many of Applicant’s debts remain outstanding to support a conclusion that he has acted responsibly with regard to them. His limited repayment efforts and failure to attempt any negotiated repayment plans reflect too little progress to demonstrate satisfactory repayment progress. More time is needed for Applicant to restore his finances to stable levels consistent with minimum clearance eligibility requirements.

Applicant questions why the Judge made findings concerning his first marriage, and asserts it has nothing to do with his security eligibility. The Board notes that the Judge discussed Applicant’s first marriage purely as background information in a section of his decision that was clearly labeled as such. A reading of the record evidence and the Judge’s decision indicates that the Judge’s findings concerning Applicant’s first marriage played no part in the Judge’s analysis regarding his financial situation, or his ultimate decision regarding Applicant’s clearance eligibility.

Applicant cites to the overall circumstances of his life in recent years when questioning why the Judge did not fully take into consideration the setting for his accumulation of delinquent debt. Applicant has not rebutted the presumption that the Judge considered all the evidence in the record or shown that he weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 08-06438 at 2 (App. Bd. Aug. 4, 2009). Given the extent and the ongoing

nature of his debts, the Board concludes that the Judge's overall decision is supported by the record.

The Board does not review a case *de novo*. The mitigating evidence cited by Applicant is not sufficient to demonstrate the Judge's decision is arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 06-11172 at 3 (App. Bd. Sep. 4, 2007). After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, "including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) (quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). "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). Therefore, the Judge's ultimate unfavorable security clearance decision is sustainable.

### **Order**

The decision of the Judge 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