

KEYWORD: Guideline F

DIGEST: Applicant failed to rebut the presumption that the Judge considered all of the evidence in the record. Applicant’s argument is not sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASE NO: 14-05357.a1

DATE: 03/17/2016

DATE: March 17, 2016

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In Re:)	
-----)	ISCR Case No. 14-05357
)	
Applicant for Security Clearance)	
)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Travis D. Tull, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On December 29, 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). On December 24, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Noreen A. Lynch 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 her current employer since 1984 and has held a security clearance since then. Applicant's SOR lists several delinquent debts. The Judge entered adverse findings for three of them, each exceeding \$30,000 in amount. Applicant's financial problems were affected by her having co-signed a student loan for her daughter, who, after a year, decided not to return to college. The student loan, which was one of the three adverse findings, became due in 2008. Applicant received a partial refund from the school in the amount of \$10,000. In addition, Applicant's mother suffered illness, necessitating her moving in with Applicant. Applicant became responsible for her mother's financial and medical needs, and, after her mother's death, paid her property taxes.

Another loan has been reduced to judgment, Applicant owing a little over \$37,000. She made some payments but became ill and was on disability for a time. The last payments she made on this debt were in 2013. The third debt found against Applicant is for a collection account of nearly \$31,000. It was closed out in 2010, remains unpaid, and no longer appears on her credit reports.

Applicant's daughter signed an affidavit accepting responsibility for the student loan and for the \$31,000 debt. There is no documentation to show that she is making payments. Applicant's salary is about \$72,000, and she has a monthly remainder of about \$500. She is current on her daily expenses, her mortgage, and her car payment. Applicant has incurred no new debts. She enjoys a good reputation for diligence and responsibility.

The Judge's Analysis

The Judge stated that Applicant's debt from 2008 is not resolved, preventing a conclusion that it happened so long ago as not to impugn her judgment or reliability. Though noting circumstances outside Applicant's control that had an impact on her finances, the Judge concluded that Applicant had not demonstrated responsible action in regard to the three delinquent debts addressed above. The Judge cited to evidence that Applicant has been steadily employed for several years but has not made efforts to pay her debts, relying instead on their not appearing on her credit reports or their charged-off status.

In the whole-person analysis, the Judge cited to evidence such as Applicant's years of employment, her having held a clearance for many years without incident or concern, her good reputation, and her adverse circumstances. However, she concluded that Applicant had not presented enough information about her efforts at debt resolution. She also noted Applicant's reliance on the charged-off status of one of her large accounts. Accordingly, the Judge concluded that Applicant had not established a track record of debt payment.

Discussion

Applicant cites to record evidence she submitted in her own behalf, such as her illness as well as that of her mother. She also cites to evidence about her debts, including that the student loan had been reduced from the amount alleged in the SOR. The Judge made findings about the evidence that Applicant has cited. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record. Neither are they enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *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: Jeffrey D. Billett
Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

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

