

KEYWORD: Guideline F

DIGEST: Applicant failed to rebut the presumption that the Judge considered all of the evidence. Hearing Office cases are not binding on other Hearing Office Judges or on the Appeal Board. Adverse decision affirmed.

CASE NO: 15-00633.a1

DATE: 08/08/2016

DATE: August 8, 2016

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 15-00633
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APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On August 7, 2015, 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 decision on the written record. On May 25, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Richard A. Cefola denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge failed to consider all of the evidence in the record; whether the Judge’s whole-person analysis was erroneous; and whether

the Judge's adverse decision as arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant's SOR alleged three delinquent debts: one for \$149, one for a little over \$3,800, and one for over \$27,700. The Judge found that Applicant had resolved the first two. However, he found that the third one was still ongoing and that she did not corroborate her claims that she had been trying to settle it. Applicant attributed her poor financial condition to her husband's underemployment and to family medical expenses.

The Judge's Analysis

The Judge concluded that Applicant failed to mitigate concerns arising from the large, ongoing debt. He noted circumstances outside her control that affected Applicant's financial condition but concluded that she had not demonstrated responsible action in regard to this debt. In the whole-person analysis, the Judge cited to Applicant's good work references. However, he stated that any effort at resolving this debt was not supported by anything beyond her own "averments." Decision at 4.

Discussion

Applicant contends that the Judge failed to consider all of the evidence in the record, citing to her letters of recommendation, her having obtained financial counseling, etc. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-05795 at 2 (App. Bd. Apr. 26, 2016). She also argues that the Judge did not properly weigh evidence that was favorable to her, for example her having resolved two of the SOR debts. However, Applicant is, in effect, arguing for an alternative interpretation of the record, which is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.* at 3.

Applicant cites to a Hearing Office case that she contends supports her effort to get a clearance. We have given this case due consideration as persuasive authority. However, Hearing Office decisions are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 14-03747 at 3 (App. Bd. Nov. 13, 2015). Each case must be decided on its own merits.

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

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board