

KEYWORD: Guideline F

DIGEST: We examine a Judge’s findings to see if they are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record. Applicant is correct about the medical debt. The SOR allegation, which Applicant admitted, and record evidence show that the amount is \$100 rather than the \$667 that the Judge found. Otherwise, we find no reason to disturb the Judge’s findings. He noted her various claims to have disputed or paid debts. His findings that she had not corroborated these claims were consistent with the record that was before him. The Judge’s material findings are based on substantial evidence, or constitute reasonable characterizations Adverse decision affirmed.

CASENO: 15-01599.a1

DATE: 12/09/2016

DATE: December 9, 2016

In Re:)	
)	
-----)	ISCR Case No. 15-01599
)	
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 September 24, 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 September 23, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Thomas M. Crean 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’s findings of fact contained errors and 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 a Defense contractor since early 2012. She was unemployed during most of 2011 and also for about six months in 2007 and 2008. She was previously granted clearances in 1980, 1997, and 2003. Her finances have been a concern since about 1997, and she addressed them in interviews with investigators. She contends that her current financial problems are due to her unemployment and to her former husband’s failure to observe the requirements of the divorce decree.

Applicant’s SOR debts include an automobile repossession, cell phone accounts, a \$667 medical debt, credit cards, and a bank overdraft fee. Applicant claimed to have disputed or resolved her debts, but she presented little corroboration. She notes that her credit reports state that some of her debts have been disputed, resolved, and/or are no longer listed on her credit report. Applicant enjoys a good reputation for her trustworthiness. She enclosed a recommendation by a Government employee that she be granted a clearance.

The Judge’s Analysis

The Judges resolved some of the allegations in Applicant’s favor. However, for the ones described above, he entered adverse findings. Though he noted circumstances outside her control that affected her finances, the Judge concluded that Applicant had not demonstrated responsible action in regard to her debts. He stated that she had not made a good-faith effort to pay them or otherwise demonstrate that her problems are under control. In the whole-person analysis, the Judge reiterated his comments, noting that Applicant has been employed since early 2012 but has not presented documentary evidence to show debt resolution.

Discussion

Applicant challenges the Judge’s findings. She argues that he erred concerning the amount of the medical debt and that she had demonstrated either that her debts had been disputed or paid.¹ We examine a Judge’s findings to see if they are supported by “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. *See* ISCR Case No. 14-04226 at 3 (App. Bd. Aug. 18, 2015).

Applicant is correct about the medical debt. The SOR allegation, which Applicant admitted, and record evidence show that the amount is \$100 rather than the \$667 that the Judge found. Otherwise, we find no reason to disturb the Judge’s findings. He noted her various claims to have disputed or paid debts. His findings that she had not corroborated these claims were consistent with the record that was before him. The Judge’s material findings are based on substantial evidence, or constitute reasonable characterizations or inferences that could be drawn from the record. Applicant has not identified any harmful error likely to change the outcome of the case. Considering the record evidence as a whole, the Judge’s material findings of security concern are sustainable. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

The balance of Applicant’s arguments challenge the manner in which the Judge weighed the evidence. She cites to credit reports, for example, as showing that some of her debts have been disputed. However, the contents of credit reports in and of themselves may not be sufficient to show meaningful efforts at debt resolution or dispute. *See, e.g.*, ISCR Case No. 14-03612 at 3 (App. Bd. Aug. 25, 2015). In this case, though noting the credit reports, the Judge found that Applicant provided little, if any, independent evidence to show the underlying basis for her disputes.² In a DOHA proceeding, the applicant bears the burden of persuasion that he or she should have a clearance. Directive ¶ E3.1.15. Given the paucity of corroborating evidence and Applicant’s lengthy history of financial problems, the Judge’s weighing of the evidence is supportable.

Applicant cites to evidence about her unemployment, marital problems, prior history of holding a clearance, etc. The Judge made findings about the things that Applicant has cited. Her 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. 14-05795 at 2 (App. Bd. Apr. 26, 2016). Applicant states that her employment is dependent upon her having a clearance. The Directive does not permit us to consider the impact of an unfavorable decision. *See, e.g.*, ISCR Case No. 14-02619 at 3 (App. Bd. Apr. 7, 2016).

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*

¹Some of Applicant’s arguments pertain to allegations that the Judge resolved in her favor.

²*See* Directive, Enclosure 2 ¶ 20(e): “the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and *provides documented proof to substantiate the basis of the dispute*[.]” (emphasis added)

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: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board