

KEYWORD: Guideline F

DIGEST: The Appeal Board has previously noted that it is reasonable for a Judge to expect applicants to present documentation to corroborate testimony. Adverse decision affirmed.

CASENO: 15-03363.a1

DATE: 10/19/2016

DATE: October 19, 2016

In Re:)	
)	
-----)	ISCR Case No. 15-03363
)	
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 November 13, 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 hearing. On July 29, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge LeRoy F. Foreman 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 decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm the Judge's unfavorable clearance decision.

The SOR alleged that Applicant failed to file his Federal income tax return for 2011 and had 18 delinquent debts totaling about \$25,000. In his appeal, Applicant argues that he filed his 2011 Federal income tax return, that his Federal debt was paid, and that his student loans were current and in good standing. Other than the student loans, no Federal debt was alleged as delinquent in the SOR. In the decision, the Judge noted that Applicant filed his 2011 Federal income tax return in June 2014. Because the Judge found in favor of Applicant on the SOR allegations concerning his 2011 Federal income tax filing delinquency and on all of the alleged student loans, any errors regarding those allegations are harmless.

In the appeal brief, Applicant asserts that a judgment against him for about \$1,500 was paid down to about \$450. The Judge found that Applicant testified he reduced the amount owed on that judgment through a payment plan, but he did not provide any documentation to corroborate his testimony. The Appeal Board has previously noted that it is reasonable for a Judge to expect applicants to present documentation about the resolution of specific debts. *See, e.g.*, ISCR Case No. 06-17520 at 2 (App. Bd. Sep. 20, 2007). After reviewing the record, the Board concludes that the Judge's material findings about the judgment are based on substantial evidence, or constitute reasonable characterizations or inferences that could be drawn from the record. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

Applicant also asserts that, since the Judge's decision, he has moved in with a roommate, cut his expenses, and plans to make payments on all of his collection accounts starting the following month. Those assertions constitute new evidence that the Appeal Board can neither receive nor consider. Directive ¶ E3.1.29.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. Applicant has not identified any harmful error likely to change the outcome of the case. 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: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board