

KEYWORD: Guideline F; Guideline E; Guideline K; Guideline M; Guideline J

DIGEST: Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 14-05928.a1

DATE: 05/30/2017

DATE: May 30, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 14-05928
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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 15, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations), Guideline E (Personal Conduct), Guideline K (Handling Protected Information), Guideline M (Use of Information Technology Systems) and Guideline J (Criminal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On February 21, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gregg A. Cervi 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. The Judge's favorable findings under Guidelines E, K, M, and J are not at issue in this appeal. Consistent with the following, we affirm.

The Judge's Findings of Fact

The Judge made the following findings pertinent to the issue raised on appeal: Applicant has worked for a Defense contractor since 2012. He experienced periods of unemployment during the years preceding his current job. He has previously held a security clearance. His SOR alleges 14 delinquent debts, totaling over \$21,000. He claimed during his interview that his financial problems were caused by his unemployment. He has engaged the services of a credit repair company and pays \$600 per month toward satisfaction of his debts, though he did not indicate which of the SOR debts are being addressed through this service. He provided no evidence of his current financial status, budget, financial counseling, or other mitigating efforts.

The Judge's Analysis

The Judge commented that Applicant's financial problems were longstanding. He concluded that Applicant has not acted responsibly in regard to his debts and that Applicant's problems continue to cast doubt on his judgment and reliability. In the whole-person analysis, the Judge stated that Applicant did not provide evidence of debt resolution, despite his having had ample time and opportunity to have addressed his security-significant issues. Moreover, he provided no corroboration for his claim that his financial condition is satisfactory.

Discussion

Applicant claims that the Judge did not consider all of the record evidence, citing to such things as his interrogatory answers, his having hired the debt repair company, etc. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017).

Applicant cites to a Hearing Office case that he believes supports his effort to obtain a favorable decision. We give this case due consideration as persuasive authority. However, each case must be decided on its own merits. Directive, Enclosure 2 ¶ 2(b). Moreover, Hearing Office decisions are binding neither on other Hearing Office Judges nor on the Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Nov. Feb. 15, 2017).

The Judge examined the relevant evidence 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: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board