

KEYWORD: Guideline F

DIGEST: Applicant contends that the Judge did not consider his family’s medical emergencies. However, the Judge made detailed findings about these matters and discussed them in his analysis. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 15-01495.a1

DATE: 07/14/2017

DATE: July 14, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 15-01495
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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 4, 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 March 31, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Claude R. Heiny 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 a Defense contractor since 2005. He served in the military, retiring in 2006. His total take-home pay, including his salary and his military pension, is about \$98,000 a year. Applicant has experienced financial problems, his SOR alleging unpaid debts for credit cards, collection accounts, etc. Applicant's problems were affected by his son's expensive medical treatment as well as by treatment for his wife's illness and by her job losses. The Judge found that Applicant had paid some of his SOR debts and that he was making payments on others. However, he stated that Applicant did not corroborate many of his claims of debt resolution. In addition, Applicant filed for bankruptcy protection in 2000, although the reasons for this action were not set forth in the record.

The Judge's Analysis

The Judge stated that, since first being asked about his debts in 2012, Applicant has shown payment of about \$1,200 out of a total of \$36,000 in delinquent financial obligations. Though noting Applicant's evidence about family medical problems and his wife's job losses, which were circumstances outside his control, the Judge concluded that Applicant had not shown responsible action, given his rather meager record of addressing his financial problems. Applicant has had no financial counseling, nor has he presented evidence that his problems are under control. Although some of his debts may have been forgiven, there is no corroborating evidence regarding this. Given Applicant's annual income and his limited evidence of actual payment, the Judge concluded that Applicant had not mitigated the concerns arising from his financial delinquencies.

Discussion

Applicant contends that the Judge did not consider his family's medical emergencies. However, the Judge made detailed findings about these matters and discussed them in his analysis. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither has he demonstrated 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 contends that a substantial number of his SOR debts are not collectable due to the running of the statute of limitations. However, even if that is so, the extent to which a debt may not be legally enforceable is not, in and of itself, evidence of responsible action or of a good-faith effort to pay it. *See, e.g.,* ISCR Case No. 14-02394 at 3-4 (App. Bd. Aug. 17, 2015).

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, Encl. 2 App. A ¶ 2(b): "Any

doubt concerning personnel being considered for national security eligibility 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