

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant cites to a Hearing Office case that she believes supports her effort to obtain a clearance. However, each case must be decided on its own merits, and Hearing Office decisions are not binding on other Hearing Office Judges or on the Appeal Board. Adverse decision affirmed.

CASENO: 15-01826.a1

DATE: 06/19/2017

DATE: June 19, 2017

| | | |
|----------------------------------|---|------------------------|
| In Re: |) | |
| |) | |
| ----- |) | ISCR Case No. 15-01826 |
| |) | |
| Applicant for Security Clearance |) | |

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 September 25, 2015, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 30, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge John Grattan Metz, Jr., 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 failed to consider all of the record evidence, resulting in a decision that was arbitrary, capricious, or contrary to law. The Judge's favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant's SOR lists 20 delinquent debts. Some of the debts were duplicates of others, some had been paid or settled, and some were apparently the result of identity theft. However, the Judge entered adverse findings regarding a majority of the remaining debts, totaling about \$14,000. The Judge noted that Applicant had first been placed on notice of her financial problems during her clearance interview. Though she asserted that she had begun to address her debts as soon as she became aware of them, it appears that she devoted most of her attention to having debts removed from her credit report rather than investigating their legitimacy. She acknowledged that she had done nothing after her interview because she had to save up the money with which to pay the debts that were hers.

Applicant's husband became gravely ill in late 2010 and was therefore unable to work. Applicant divorced him five years later. Two other close relatives died in 2014. Applicant earns about \$69,000 a year and has about \$500 left over each month. On the other hand, she has no savings and no retirement fund.

After the hearing, Applicant hired an attorney who pursued legal action against two of the credit bureaus. As a result, one of the bureaus stated by letter that "it appeared that Applicant may have been the victim of identity theft, which contributed to disputed information in her credit files." Decision at 3. The bureau attached a copy of Applicant's credit report, but Applicant did not submit it in her post-hearing documents.

Applicant provided no evidence of financial counseling or of a budget. Neither did she submit character references or work evaluations.

The Judge's Analysis

The Judge cleared Applicant regarding seven of the debts alleged in the SOR, noting evidence of duplication, fraud, etc. He noted, however, that some debts were not resolved until after Applicant had received the SOR. He stated that Applicant's remaining debts have not been clearly resolved, noting that she did not provide a copy of the credit report that accompanied the letter from the credit reporting agency referenced above. The Judge concluded that Applicant's failure to provide corroborating evidence diminished the mitigating force of her presentation.

Discussion

Applicant cites to favorable evidence, such as her having been a victim of fraud and her difficult personal circumstances, such as her husband's illness and deaths in her family. The Judge made findings about this evidence, and discussed it in his analysis. Based on Applicant's evidence, the Judge entered favorable findings for several of the allegations. Applicant has not rebutted the

presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017). Applicant cites to a Hearing Office case that she believes supports her effort to obtain a clearance. However, each case must be decided on its own merits, and Hearing Office decisions are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Feb. 15, 2017).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The Judge's reliance on the timing of Applicant's corrective action and the paucity of corroborating evidence is consistent with the record that was before him. "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