

KEYWORD: Guideline F; Guideline E

DIGEST: As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence , or vice versa. Adverse decision affirmed.

CASENO: 15-03911.a1

DATE: 07/21/2017

DATE: July 21, 2017

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 15-03911
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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 January 17, 2016, 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 decision on the written record. On May 5, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge

LeRoy F. Foreman denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant admitted to all the allegations in the SOR. He requested that his case be decided on the written record and did not respond to the government's File of Relevant Material (FORM). On appeal Applicant argues that the Judge's adverse decision should be reversed because his financial problems occurred a long time ago and never affected his good judgement. Applicant's argument does not demonstrate that the Judge's decision is arbitrary, capricious, or contrary to law.

Once the government presents evidence raising security concerns, the burden shifts to the applicant to establish mitigation. Directive ¶ E3.1.15. The presence of some mitigating evidence does not alone compel the Judge to make a favorable security clearance decision. As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. A party's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-01652 at 2 (App. Bd. Jul. 7, 2017).

In reaching his adverse decision under Guideline F, the Judge noted that Applicant's delinquent debts were "numerous, recent, and were not incurred under circumstances making them unlikely to recur." Decision at 5. While they may have been due to circumstances beyond his control, Applicant had not acted responsibly. Moreover, he had "presented no evidence of counseling, payments, payment agreements, or grounds for disputing any of the debts, even though he ha[d] been employed since January 2011." *Id.* Based on the record that was before him, the Judge's conclusion that Applicant had not mitigated the government's security concerns under Guideline F was sustainable.

The Board does not review a case *de novo*. The favorable evidence cited by Applicant is not sufficient to demonstrate the Judge's decision under Guideline F is arbitrary, capricious, or contrary to law. Moreover, Applicant has not challenged the Judge's adverse decision as to the Guideline E allegations. "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).

**Order**

The decision is AFFIRMED.

Signed: Michael Ra'anan

Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James F. Duffy

James F. Duffy  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields

William S. Fields  
Administrative Judge  
Member, Appeal Board