

KEYWORD: Guideline F

DIGEST: A Judge has no authority to promise an applicant a clearance or to advise on the quantum of evidence that would mitigate the concerns in his or her case. In addition, actions in a clearance adjudication may have significant ramifications in other aspects of an applicant's life. Adverse decision affirmed.

CASENO: 15-05849.a1

DATE: 07/17/2017

DATE: July 17, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 15-05849
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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 April 20, 2016, 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 May 9, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative

Judge Mark Harvey denied Applicant's request for a security clearance. Applicant appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief states the "Judge told me to worry about the IRS debt which I did . . ." The Judge told Applicant "[t]he key issue here is your IRS debt. That's a lot more important than any of the other ones. I know in a couple of months, you're not going to be able to show much progress on \$26,000 in debt. You need to have a great job to make a dent in that. If you can make some progress -."¹ The appeal brief also contains a narrative statement from the Applicant explaining his financial situation and stating that he fully resolved the significant Federal tax lien alleged in SOR ¶ 1.a. However, the Judge found in favor of Applicant with respect to that allegation. The Judge found against Applicant on nine debts with a total value of more than \$23,000. Additionally, Applicant requests that the Board grant him more time to pay off his debts because he has been "out of work for nearly a month with no pay."

The Board cannot consider any new evidence on appeal. *See* Directive ¶ E3.1.29. Moreover, it has no authority to grant an applicant an extension for the purpose of obtaining more evidence. *See, e.g.*, ISCR Case No. 15-01778 at 2 (App. Bd. Jan. 31, 2017). The Board does not review a case *de novo*. The Board cannot conclude on the substance of this case that the Judge committed harmful error. Applicant has not made an allegation of harmful error on the part of the Judge. Therefore, the decision of the Judge 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

¹Tr. 56. The Judge's statement to Applicant created a situation that was similar to one we reviewed in ADP Case No. 15-03786 (App. Bd. Apr. 21, 2017). As we noted there "A Judge has no authority to promise an applicant a clearance or to advise on the quantum of evidence that would mitigate the concerns in his or her case. *See e.g.*, ISCR Case No. 14-02806 at 3, n.1 (App. Bd. Sep. 9, 2015). In addition, actions in a clearance adjudication may have significant ramifications in other aspects of an applicant's life."

Administrative Judge
Member, Appeal Board