

Applicant raised the following issue on appeal: whether the Judge's adverse decision is arbitrary, capricious or contrary to law.

Applicant argues that the Judge's adverse decision should be reversed because he paid off both of the SOR debts and proof was submitted. In support of his argument he states that the reason he waited eight months after the issuance of the SOR to withdraw money from his retirement account to pay off the debts was so that he could accrue interest on the account before paying the amounts owed. His argument does not demonstrate that the Judge's decision is arbitrary, capricious or contrary to law.

The presence of some mitigating evidence does not alone compel the Judge to make a favorable trustworthiness determination. 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., ADP Case No. 16-01251 at 2 (App. Bd. Jun. 7, 2017).*

In reaching his adverse decision, the Judge specifically found that Applicant had paid both of the debts listed in the SOR. Decision at 5-6. However, in evaluating Applicant's case in mitigation, he also noted that Applicant "lives from paycheck to paycheck," "spends more than he earns monthly," and "is currently seeking a second job with which to earn sufficient funds to pay his delinquent debts not listed in the SOR." *Id.* at 2-3, 6. Based on the record that was before him, the Judge's conclusion that Applicant "has a substantial and recurring financial problem that he has not resolved and cannot with his available resources" and "[i]t is highly likely his financial difficulties will continue for some time" is sustainable. *Id. at 6; see, e.g., ISCR Case No. 14-02930 at 3 (App. Bd. Dec. 9, 2015)*(Even if an applicant has actually paid his debts, a Judge may still consider the circumstance underlying the debts for what they may reveal about the applicant's clearance eligibility).

The Board does not review a case *de novo*. The favorable evidence cited by Applicant is not sufficient to demonstrate the Judge's decision is arbitrary, capricious, or contrary to law. *See, e.g., ADP Case No. 16-01251 supra.* After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision. The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination "may be granted only when 'clearly consistent with the interest of national security'." *See, e.g., ADP Case No. 16-01251 supra. See also Kaplan v. Conyers*, 733 F.3d 1148 (Fed. Cir. 2013), *cert. denied.*

Order

The decision is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. 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