

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 in his current job since 2012. In 2005, he and his former girlfriend purchased a house. A few years later, he withdrew funds from his retirement account to pay for remodeling. He also purchased an \$8,500 engagement ring and two vehicles. In 2008 his girlfriend became unemployed and a year later he was laid off from his job. Unable to repay the loan from his retirement account, he became liable for taxes. He moved to different states and took a variety of jobs, receiving unemployment benefits. He attempted to resolve some of his tax problems by hiring a tax firm, which went bankrupt. In 2012, Applicant's current employer hired him, and he was able to pay delinquent child support obligations.

In 2014, Applicant's father passed away, and he inherited \$100,000. He bought a new car from the proceeds, though he had a Federal tax lien. Applicant has not resolved this lien, although any refunds to which he is entitled will be applied to the debt. He does not intend to use his inheritance to resolve this lien, although he is willing to do so if it cannot be discharged through tax refunds. Applicant does not know the balance that he owes the IRS.

Applicant has two state tax liens, one of which he has resolved though the other is still delinquent. He believes that it will be satisfied from his 2016 state tax refund. In addition to his tax obligations, Applicant owes \$155,000 remaining after a foreclosure sale of his house. He has not contacted the creditor and does not know the status of the debt. He has not received an IRS Form 1099 C, which certifies that a creditor has forgiven a debt.

Applicant also has a judgment against him for a credit card. He advised his interviewer that he has received calls and letters from a collection company and would settle the debt if he could afford it. Though re-employed, Applicant has not contacted the creditor. Applicant's SOR also alleges a charged-off second mortgage, which he states that he does not anticipate paying. He also denied any knowledge of a relatively small charged-off debt, claiming that he did not know the identity of the creditor. Applicant's financial statement shows a delinquent debt balance of nearly \$184,000. This statement does not include Applicant's inheritance.

When completing his security clearance application (SCA), Applicant disclosed only his child support delinquencies. He did not disclose his other delinquent debts or his tax liens, although the SCA explicitly sought such information. He told his interviewer that he did not disclose the Federal tax lien because he disagreed with it and intended to dispute it. He stated that he had failed to disclose the state tax liens because he was not aware of them. Concerning the other financial delinquencies, Applicant stated that he either forgot about them or that he tried to list them but forgot to hit "save" on his computer.

At the hearing, Applicant stated that he had problems with the computer program, in that it would not accept his answers. Persons at the help desk told him to delete certain entries, though he could not recall which ones. He did not disclose this information in the comment section of the

SCA, nor did he disclose it during his clearance interview.

The Judge's Analysis

The Judge noted Applicant's unemployment, which was a circumstance outside his control. She concluded that he had not demonstrated responsible action in regard to his debts, however, noting, among other things, that he had received a substantial inheritance but does not intend to use it for debt resolution. Though Applicant has paid one of his state tax liens, he has not initiated good-faith efforts to resolve his problems.

The Judge found that Applicant's omissions from his SCA were deliberate. Citing to his inconsistent explanations, she found his testimony to be lacking credibility. She concluded that none of the mitigating conditions served to absolve him of his deliberate false statements. She noted, for example, that he had not corrected his omissions before having been confronted with them and that the circumstances were not unique or unlikely to recur. In the whole-person analysis, the Judge cited to Applicant's military service and his job loss during an economic downturn. However, she concluded that he has ignored his financial obligations despite having the resources to address them.

Discussion

Applicant challenges the Judge's mitigation analysis. He argues that he is resolving his problems, citing to evidence that his tax refunds are to be used to pay off his delinquent tax obligations. He also cites to his claims that the electronic SCA was defective. His argument is not enough to rebut the presumption that the Judge considered all of the evidence in the record. Neither is it sufficient to show 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 the Judge denied him a clearance, in part, because he could not explain the legal complexities of foreclosure. However, there is nothing in the Decision that would suggest this. Rather, the Judge relied on evidence that Applicant has had the financial means to address his debts for several years but has failed to do so.

Applicant reiterates his contention that his electronic SCA was defective. Given the Judge's finding that Applicant knew of his debts at the time he completed the SCA and Applicant's inconsistent explanations for his omissions, there is no reason to disturb the Judge's finding that Applicant's omissions were deliberate. The Judge's material findings are supported by "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." Directive ¶ E3.1.32.1.

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, 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: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board