

KEYWORD: Guideline F

DIGEST: The Judge erred in finding that Applicant was married twice and that she has been employed full time since June 2015. The best course of action is to remand the case to the Judge for additional processing as appropriate. Adverse decision remanded.

CASENO: 15-07869.a1

DATE: 06/30/2017

DATE: June 30, 2017

In Re:)	
)	
-----)	ISCR Case No. 15-07869
)	
Applicant for Security Clearance)	
)	

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 February 8, 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 decision on the written record. On April 17, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert J. Kilmartin denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge erred in the findings of

fact and whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we remand the decision.

The Judge's Findings of Fact and Analysis

Applicant is 43 years old, has been married twice, and has two children. "She has been employed by a Federal contractor since January 2015, pending the outcome of her clearance application. She has also worked full time for the U.S. Postal Service since June 2015." Decision at 2.

The SOR alleges 16 delinquent debts totaling more than \$26,000. Applicant admitted 15 of the SOR allegations and denied a state tax lien of \$61. In her Answer to the SOR, she provided documentation showing proof of payments towards three debts, including payment of the state tax lien of \$61. She provided no other documentation. In her Answer to the SOR, she repeatedly stated that she has been in contact with creditors to make arrangements to resolve the debts, but offered no corroboration. The Judge concluded that Applicant had not met her burden of persuasion.

Discussion

In the appeal brief, Applicant contends the Judge erred in finding that she was married twice and that she has been employed full time since June 2015. Documents in the File of Relevant Material support her contentions. The summary of her background interview reflects that she was a part-time employee of the Postal Service in 2015. Additionally, her security clearance application reflects her employment with the Federal contractor was contingent on her obtaining a security clearance and that she has been married once. While the error regarding her marital history was a harmless error because it most likely had no affect on the ultimate decision, we cannot draw that same conclusion regarding the employment status error. The Judge incorrectly indicated twice in the findings of fact that Applicant was gainfully employed since June 2015. In his analysis, the Judge noted Applicant expressed her intent to pay all of the debts as soon as she is gainfully employed, but produced no evidence of following through on that intent. Given these circumstances, the Board concludes the best course of action is to remand the case to the Judge for additional processing as appropriate.

Applicant raised other appeal issues, but it would be premature to address them at this time. She also provided a number of documents that she did not previously submit to the Judge for consideration. We cannot consider new evidence on appeal. Directive ¶ E3.1.29.

Order

The Decision is **REMANDED**.

Signed: Michael Ra'anan

Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board