

Applicant raised the following issue on appeal: whether the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law.

The Judge's Findings of Fact

Applicant was first granted a security clearance in 1981. She experienced a year of unemployment from 2012 to 2013 and again for about four months in 2014. She used her savings to support herself during these periods. Applicant failed to file Federal and state income tax returns for 2011 through 2014. She attributed that failure to poor record keeping and to the fact that she was living in one state while providing care for her elderly mother who lived in another. She maintained her own finances as well as those of her mother, which became confusing, with the result that she could not provide records for 2011. This, in turn, affected subsequent years. She told her clearance interviewer that she would have her taxes filed by December 2015. A tax company submitted a letter dated April 2016 in which it disclosed that it had prepared Applicant's returns for 2011 through 2015 and will submit them upon receipt of relevant information from Applicant.

The Judge's Analysis

The Judge noted circumstances outside Applicant's control that affected her tax difficulties. However, she also noted that Applicant had not filed her returns by the end of 2015, as she had promised, nor had she done so by the close of the record. In the whole-person analysis, the Judge stated that Applicant had been granted a clearance as early as 1981 and that she had experienced difficulties that exerted an impact on her tax delinquencies. However, as of June 2016, Applicant had not filed her returns.

Discussion

Applicant's brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. She argues that the Judge erred in concluding that she had not presented evidence of financial responsibility. However, both in her findings and in her analysis, the Judge cited to evidence favorable to Applicant, including the letter from the tax company promising to file Applicant's returns by April 2016. Given evidence that Applicant's poor record keeping contributed to her problem and to evidence that she did not file her returns by the end of 2015 as she promised, we cannot say that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-08842 at 3 (App. Bd. Feb. 14, 2017).

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