

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 Finding of Fact

Applicant retired from the military as a major. He has been married to his current wife since 2010. He has two children from his first marriage and two step-children. Since his military retirement, Applicant has been employed by a Defense contractor. He earns about \$70,000 a year in addition both to retirement pay as well as to disability pay that he receives from the VA. He provides tuition, room, and board for three children attending college. His regular expenses include rent, utilities, and car payments. He provided no further evidence about his income and expenses.

Applicant has financial troubles. He attributed his problems to his divorce from his first spouse. At that time he assumed responsibility for the credit card debts that had arisen during the course of the marriage. The record is silent as to the overall amount of debt that is attributable to the first marriage and any amount that has arisen since. Applicant expressed no intention to pay his credit card debts or other unresolved debt alleged in the SOR. In his response to the File of Relevant Material he "finally expressed an intent to pay certain debts[.]" Decision at 4.

Applicant's SOR alleges eleven delinquent debts, the majority of which are for credit cards. Other debts include a deficiency resulting from a foreclosure sale of a house, a loan that has gone to collection, and a bill for utilities. The Judge found that Applicant did not in fact owe the alleged home foreclosure deficiency. She also found that Applicant had paid one of the credit card debts. However, the Judge found the balance of the SOR debts to be unresolved, stating that Applicant had not presented evidence to corroborate his claims of payment. Applicant has not undergone credit counseling.

The Judge's Analysis

The Judge entered favorable findings concerning the mortgage and the credit card debt that Applicant had paid. However, regarding the balance of the allegations, the Judge concluded that none of the mitigating conditions fully applied. She stated that Applicant's debts have persisted over many years since his divorce. Although that divorce was a circumstance outside Applicant's control, she concluded that he had not demonstrated responsible action in regard to his debts. She noted that he had not received financial counseling and stated that there is insufficient evidence that he has attempted to resolve his problems.

Discussion

Applicant's brief includes information from outside the record in an attempt to provide more detailed context for his financial problems. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant's brief reiterates evidence in the record about his efforts at debt resolution, his military service, marital problems, etc. The Judge made detailed findings about Applicant's

circumstances and discussed them in her analysis. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither has he demonstrated 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). In a DOHA proceeding, the applicant bears the responsibility to present evidence in mitigation. Directive ¶ E3.1.15. Given the record that was before her, the Judge did not err in concluding that Applicant had failed to meet this burden.

Applicant notes that his continued employment is conditioned upon his holding a clearance. The Directive does not permit us to consider the impact of an unfavorable decision. *See, e.g.*, ISCR Case No. 15-06532 at 3 (App. Bd. Feb. 16, 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