

KEYWORD: Guideline F

DIGEST: Acknowledging the extent of her financial problems, Applicant contends that she has exhibited responsible action in regard to them. Applicant is, in effect, arguing for an alternative interpretation of the evidence, which is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 16-01430.a1

DATE: 08/10/2017

DATE: August 10, 2017

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 16-01430
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APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Stanley J. Mecinski, Jr., Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On August 15, 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 hearing. On June 1, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Marc E. Curry denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

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

Since 2010, Applicant has acquired about \$24,000 in delinquent debt, which includes about \$1,600 for a past-due Federal income tax obligation. Applicant was married in 1992 and divorced in 1998. Her ex-husband was an spendthrift, and Applicant filed for bankruptcy protection to address her debt load. She became engaged to another person, but they separated. Applicant moved to another residence and struggled financially. Her problems were compounded by her children who, addicted to drugs, stole from her. She has strained to make bail payments for her middle son who was frequently in and out of jail.

Applicant has resolved about \$1,000 of her debts but has about \$22,500 remaining. After the hearing, she scheduled an appointment with a credit counselor. Once she provides the necessary information about income and expenses, the counselor will prepare a repayment plan. She earns about \$42,000 a year and began a part-time job that pays an added \$7,000.

The Judge's Analysis

The Judge concluded that Applicant's financial circumstances raised concerns under Guideline F, in particular that she had shown an inability or unwillingness to pay her debts and that she had a history of failing to meet financial obligations. In addressing Applicant's case for mitigation, the Judge cited to evidence of Applicant's divorce and subsequent bankruptcy filing. He also cited to the problems resulting from her breakup with her fiancé and to her children's drug addictions and legal expenses. However, he concluded that these challenges were not enough to mitigate the concerns arising from Applicant's substantial amount of delinquent debt. Concerning the Federal tax debt, the Judge stated that Applicant's promise to address it with an expected upcoming tax refund is merely speculative. He stated that the Federal tax delinquency is of significant security concern, insofar as it impugns Applicant's willingness to abide by governmental rules and regulations.

Discussion

Acknowledging the extent of her financial problems, Applicant contends that she has exhibited responsible action in regard to them. She also argues that she has made a good-faith effort to pay her debts. She contends that she has been negligent rather than willful in her management of her financial affairs and believes that the various causes of her debts will not recur. Applicant is, in effect, arguing for an alternative interpretation of the evidence, which is not enough 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. 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, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility 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: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board