

KEYWORD: Guideline F

DIGEST: Applicant’s argument is, in effect, a disagreement with the Judge’s weighing 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: 16-03438.a1

DATE: 10/5/2017

DATE: October 5, 2017

In Re:)	
)	
-----)	ISCR Case No. 16-03438
)	
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 December 22, 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 July 26, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Carol G. Ricciardello 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

Applicant has been employed by a Federal contractor since January 2015. His SOR lists numerous delinquent debts, one of which is a lease that he co-signed with his son, though the predominance of them are medical expenses. Applicant hired a credit counseling service to assist him in resolving his debts, and the Judge found that four of those listed in the SOR had been addressed. However, for the balance, she found the opposite. She stated that Applicant's efforts to resolve his debts did not begin until he had received the SOR, despite their having been in existence for several years.

Applicant attributed his financial problems to several periods of unemployment, a lack of health insurance, and a divorce. He stated that, after his divorce, he moved four times and changed insurance companies. Sometimes medical bills were not transferred to the new carrier. When interviewed about his debts by a Government investigator, Applicant advised that he would pay all of his outstanding debts. In his Answer to the SOR, Applicant stated that he was in the process of determining the validity of charges and would have the information at the time of the hearing. As stated above, many of the SOR debts had been delinquent since 2013 and longer.

The Judge's Analysis

The Judge stated that most of Applicant's debts are over four years old and remain unresolved. She stated that she could not conclude that applicant's financial problems were unlikely to recur. Though noting circumstances outside his control that affected his financial problems, the Judge found that he had not demonstrated responsible action in regard to them. She cited to evidence that applicant's efforts to resolve his problems did not occur until after he had received the SOR. She noted the credit counseling firm that Applicant has hired but stated that it is too early to conclude that he is adhering to a good-faith effort to repay creditors.

In the whole-person analysis, the Judge cited to Applicant's unemployment, lack of health insurance, and divorce. On the other hand, she also cited to Applicant's continuous employment since January 2015 and to his relative tardiness in addressing his financial problems. She stated that there is little evidence to show that, once employed, Applicant undertook responsible action to address his delinquent debts.

Discussion

Applicant contends that he has successfully mitigated all of the allegations in the SOR. He cites to his exhibits, which, he believes, show that his financial problems are under control. The Judge discussed much of Applicant's evidence, both in her findings and in her analysis. Applicant's argument is, in effect, a disagreement with the Judge's weighing 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. 15-08711 at 3 (App. Bd. Aug. 24, 2017). Given the Judge's findings about the relative age of Applicant's debts and his having undertaken to resolve

them only after having received the SOR, we conclude that the Judge's decision is sustainable.

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