

KEYWORD: Guideline F

DIGEST: In a DOHA proceeding, the applicant bears the burden of persuasion that he should have a favorable decision. Directive ¶ E3.1.15. In this case, Applicant received a copy of the File of Relevant Material (FORM) and cover letter that accompanied it, advised him of his right to submit a documentary response. In fact, the FORM cited to lacunae in the record evidence concerning steps Applicant had taken to address his debts. This was sufficient to have apprised Applicant of the kind of evidence that he could submit, such as debt payment, current financial stability, etc. However, Applicant submitted nothing. Adverse decision affirmed.

CASENO: 15-01020.a1

DATE: 01/13/2017

DATE: January 13, 2017

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In Re:)
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)
-----) ISCR Case No. 15-01020
)
)
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 September 18, 2015, 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 November 1, 2016, after considering the record, 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

Applicant is separated from his wife. The couple have two children. Applicant is a high school graduate who has earned some college credits. He served in the military from 2002 through 2007. After leaving active duty he entered the Reserves but quit before completing his enlistment. Between 2010 and 2015, Applicant incurred nearly \$12,000 in delinquent debt. He attributed this debt to the family living on one income while his wife attended college. In addition, both his wife and one of his children had medical problems.

Applicant has maintained his own finances since separating from his wife. He has resolved three of the SOR allegations and is working to repay his debts. He hopes to have all of his debts paid by the end of 2016. He provided no evidence, however, of any debt payment since October 2015.

The Judge’s Analysis

The Judge stated that Applicant’s financial problems were affected by circumstances that were outside his control. However, citing to his finding that Applicant had provided no evidence of debt payment since October 2015, he concluded that Applicant had not shown responsible action. He also concluded that Applicant had not demonstrated a good-faith effort to resolve his debts. He stated that Applicant had not provided sufficient documentary evidence of his progress at debt resolution.

Discussion

Applicant’s brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. He cites to his evidence at debt resolution, such as his having cashed out a retirement account. He also contends that he currently lives within his means. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 15-02854 at 2 (App. Bd. Nov. 22, 2016).

In a DOHA proceeding, the applicant bears the burden of persuasion that he should have a favorable decision. Directive ¶ E3.1.15. In this case, Applicant received a copy of the File of Relevant Material (FORM) on January 19, 2016. The FORM, as well as the DOHA cover letter that accompanied it, advised him of his right to submit a documentary response. In fact, the FORM cited to lacunae in the record evidence concerning steps Applicant had taken to address his debts. This was sufficient to have apprised Applicant of the kind of evidence that he could submit, such as debt payment, current financial stability, etc. However, Applicant submitted nothing. Decision at 2. The Judge’s conclusion that Applicant had not met his burden of persuasion 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, 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 Y. Ra’anan
Michael Y. 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