

KEYWORD: Guideline F

DIGEST: . The fact a debt no longer appears on a credit report does not establish any meaningful, independent evidence as to the disposition of the debt. Debts may fall off credit reports for various reasons, including the passage of time. Adverse decision affirmed.

CASENO: 15-03907.a1

DATE: 08/02/2018

DATE: August 2, 2018

In Re:

Applicant for Security Clearance

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) ISCR Case No. 15-03907
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)

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

James L. Stanton, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 27, 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 initially requested a hearing, but later asked for a decision on the written record. On April 12, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gregg A. Cervi 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 discussion, we affirm the Judge’s decision.

The Judge’s Findings of Fact and Analysis

Applicant, who is 60 years old, works for an international organization. She has earned two post-graduate degrees. The SOR alleges seven delinquent debts. These include two student loans totaling about \$215,000, a home equity line of credit for about \$9,200, two credit card accounts totaling over \$24,000, and small debts to a utility company and the U.S. Government. In her Answer to the SOR, she provided a comprehensive explanation of the events leading to her debts, and the actions she has taken regarding them.

Applicant made regular payments on her student loans until about 2010 when her rental property incurred significant water damage that resulted in an insurance dispute. At that time, she began working overseas and incurred significant expenses to make the rental property habitable. She claimed her credit card and student loan accounts were cut off by 2010. She could not get responses from creditors and attributed those communication problems to the housing market collapse. The Judge further stated:

Applicant claims the utility company and U.S. Government debts were paid. She did not provide a current status of the credit-card debts and noted that she is working on methods to resolve the student-loan debts, although she could not explain why the total reported on her credit report was more than she believed she owed. She did not provide independent documentary evidence of debt payments, payment plan agreements, or other debt resolution efforts.¹

While the water damage to Applicant’s rental property was a circumstance beyond her control, she has not shown sufficient documentary evidence of the debt resolution. Her debts arose years ago, and her efforts to address them were not timely. “There is insufficient record evidence showing progress toward resolution of her debts or that her financial situation is under control.” Decision at 5. Questions exist about Applicant’s judgment and overall financial responsibility.

¹ Decision at 2.

Discussion

In the appeal brief, Applicant argues that the student loans are not delinquent and that other debts have been paid or resolved. Her arguments are based on those loans and debts no longer being listed on credit reports in the File of Relevant Material (FORM), *i.e.*, Items 7 and/or 8. We do not find Applicant's arguments persuasive. The fact a debt no longer appears on a credit report does not establish any meaningful, independent evidence as to the disposition of the debt. *See, e.g.*, ISCR Case No. 16-03103 at 3 (App. Bd. Jun. 21, 2018). Debts may fall off credit reports for various reasons, including the passage of time. *Id.* Once the alleged debts were proven by record evidence (FORM Items 3-7), Applicant had the burden to present evidence to rebut, explain, extenuate, or mitigate the security concerns arising from those debts and had the ultimate burden of persuasion for obtaining a favorable clearance decision. Directive ¶ E3.1.15. We find no reason to disturb the Judge's determination that Applicant failed to meet that burden.

The balance of Applicant's arguments amount to a disagreement with the Judge's weighing of the evidence. Her arguments, however, are not sufficient 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. 17-00257 at 3 (App. Bd. Dec. 7, 2017).

Applicant's appeal brief fails to establish the Judge committed any harmful error. 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: Charles C. Hale
Charles C. Hale
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Member, Appeal Board