

KEYWORD: Guideline F

DIGEST: Applicant has not made a *prima facie* showing that he actually mailed anything to DOHA in response to the FORM or that he was otherwise denied the due process afforded by the Directive. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. Adverse decision affirmed.

CASE NO: 15-03712.a1

DATE: 01/11/2018

DATE: January 11, 2018

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In Re:)	
)	
-----)	ISCR Case No. 15-03712
)	
)	
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 January 11, 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 decision on the written record. On October 25, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Edward W. Loughran denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether he was denied due process and 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 and Analysis

Applicant's SOR alleges a \$24,600 past-due mortgage loan that was in foreclosure and two other delinquent debts that together total \$239. There is little evidence to establish the cause of Applicant's financial problems other than his 2010 divorce. In his SOR response he claimed that he was not aware of the two smaller debts, although he stated that he had arranged to pay them. The Judge noted that, although Applicant was placed on notice by means of the File of Relevant Material (FORM) that he had not mitigated the concerns raised by his debts, he provided nothing in response. Accordingly, the Judge stated that he could not find that Applicant had acted responsibly in regard to his financial problems or made a good-faith effort to pay his debts.

Discussion

Applicant contends that he mailed his response to the FORM in June 2017. He states that DOHA received his receipt acknowledgment but not his response, as a result of which the Judge issued his Decision without having considered all of the evidence. Applicant's brief contains new evidence, which we generally cannot consider. Directive ¶ E3.1.29. However, we will consider new evidence insofar as it pertains to threshold issues such as jurisdiction or due process. *See, e.g.*, ISCR Case No. 14-00812 at 2 (App. Bd. Jul. 8, 2015). In resolving cases in which applicants claim to have submitted documents that were not received, we generally examine the record and the briefs to see whether there is any support for this claim. *See, e.g.*, ISCR Case No. 15-08068 at 2 (App. Bd. Sep. 8, 2017).

In the case before us, as Department Counsel observes in his Reply Brief, Applicant has provided no Postal Service receipt, copy of an email, or other evidence to buttress the contentions in his Appeal Brief. Reply Brief at 5. Neither does he identify nor describe any evidence that he contends that he submitted. Under the facts of this case, Applicant has not made a *prima facie* showing that he actually mailed anything to DOHA in response to the FORM or that he was otherwise denied the due process afforded by the Directive. *See, e.g.*, ISCR Case No. 14-00967 at 2 (App. Bd. Jan. 20, 2015). Although *pro se* applicants are not held to the standards of lawyers, they are expected to take reasonable steps to preserve their rights. *See, e.g.*, ISCR Case No. 15-08255 at 4 (App. Bd. Aug. 22, 2017). We resolve this allegation adversely to Applicant.

The balance of Applicant's brief is a challenge to the Judge's weighing of the evidence. Applicant has not shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Neither has he rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 16-03219 at 2 (App. Bd. Nov. 15, 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