

KEYWORD: Guideline E; Guideline F

DIGEST: The Judge’s findings that Applicant had not shown any effort to resolve this is consistent with the record that was before her, as is her conclusion that Applicant had not demonstrated responsible action concerning any debts that may have resulted from circumstances outside his control. Even discounting the debts that Applicant has claimed are not his responsibility, his obligation to the IRS, the judgment, and the other debts that Applicant admitted are sufficient to support the Judge’s adverse decision. Adverse decision affirmed.

CASENO: 15-04158.a1

DATE: 03/15/2018

DATE: March 15, 2018

In Re:)	
)	
-----)	ISCR Case No. 15-04158
)	
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 16, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a decision on the written record. On October 27, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gina L. Marine 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 failed to consider all of the evidence, resulting in an adverse decision that was arbitrary, capricious, or contrary to law. The Judge’s favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant, who is 87 years old, was a Government employee from 1954 through 1984. He has worked for a Defense contractor since 2003. He received a DoD security clearance in 1992. Applicant’s SOR alleges numerous delinquent debts, many of which Applicant admitted. However, he denied seven of them, although they are established by Applicant’s credit reports. Applicant attributed the denied debts to his son, who shares Applicant’s name. He also stated that he incurred medical expenses on behalf of his grandson, although medical accounts are not explicitly alleged in the SOR. The SOR debts include a Federal tax lien for over \$9,800 and a court judgment for over \$1,800. Applicant negotiated an installment plan with the IRS and paid \$232 pursuant to the agreement. He made three payments, totaling \$360, on the judgment. He provided no documentary evidence of payment or resolution of any other debts.

The Judge’s Analysis

The Judge found that Applicant’s debts were numerous and not unlikely to recur. She stated even if some of Applicant’s debts resulted from circumstances beyond his control, Applicant did not show responsible action in regard to them. She noted Applicant’s claim that some of his debts were actually his son’s, although she found that Applicant had not demonstrated any effort to resolve this issue. Regarding the IRS agreement, she stated that one payment is not enough to show compliance.

Discussion

Applicant reiterates his contention that some of the debts alleged in the SOR were not his. He also cites to his SOR response, that he incurred debt in connection with his brother’s death. The Judge addressed Applicant’s claims that some debts were his son’s. Her observation that Applicant had not shown any effort to resolve this is consistent with the record that was before her, as is her conclusion that Applicant had not demonstrated responsible action concerning any debts that may have resulted from circumstances outside his control. Even discounting the debts that Applicant has

claimed are not his responsibility, his obligation to the IRS, the judgment, and the other debts that Applicant admitted are sufficient to support the Judge’s adverse decision. Applicant has not rebutted the presumption the Judge considered all of the evidence, nor has he shown 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).

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: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

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