

KEYWORD: Guideline F

DIGEST: Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Neither has she demonstrated that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASE NO: 15-06908.a1

DATE: 01/18/2017

DATE: January 18, 2017

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| In Re: ----- Applicant for Security Clearance |))))))) | ISCR Case No. 15-06908 |
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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 April 6, 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 November 22, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Thomas M. Crean 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

A high school graduate, Applicant attended college for two years. She worked for a Defense contractor since mid-2007. She has two children. In 2005, she held a clearance from a Government agency for which she interned.

Applicant's SOR lists numerous delinquent debts, for such things as car repossessions, medical expenses, telephone services, rent, traffic tickets, etc. The debts total about \$31,000. She had similar debts when interviewed in 2009 for clearance eligibility. Applicant's problems began when she used credit cards to pay debts while she was in school. She lived with her mother, whose loss of a job meant that the mother could no longer share in family expenses.

Applicant told her clearance investigator that she had paid a number of her debts and stated that she is doing everything possible to resolve her financial difficulties. She did not provide any corroboration to the investigator, however. Applicant presented a recent credit report that showed that she had paid two small accounts and had made payments on others. Others, however, were written-off. Otherwise, she did not corroborate her claims of debt resolution.

The Judge's Analysis

The Judge concluded that Applicant's debts did not result from conditions beyond her control but, rather, from her own choices. He stated that almost all of her debt was caused by the use of credit cards. Moreover, Applicant has not shown responsible action in regard to her debts. The Judge also concluded that Applicant had not made good-faith efforts to resolve her problems, nor had she shown a track record of debt resolution. He stated that she had not presented evidence of a reasonable plan to pay her debts. The Judge also noted that Applicant had not received financial counseling. Applicant did contact a credit counseling service but did not want to pay the fees. The Judge stated that, even though she had been gainfully employed in a good-paying job for many years, Applicant did not demonstrate a record of consistent action to resolve her financial difficulties.

Discussion

Applicant's appeal brief includes new evidence. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant has attached to her brief copies of favorable Hearing Office decisions that she believes are similar to her own. We have given these cases due consideration as persuasive authority. However, the cited cases have significant differences from Applicant's own, and each case must be decided on its own merits. In any event, Hearing Office cases are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 15-04096 at 3 (App. Bd. Nov. 22, 2016).

Applicant's brief cites to her evidence in mitigation, and she draws our attention to favorable

comments by the Judge. In addition, she includes a copy of the Judge's decision with specific findings highlighted for emphasis. 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). Neither has she demonstrated that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-06686 at 2 (App. Bd. Apr. 27, 2016).

Applicant notes that her clearance interview summary includes a statement to the effect that she is unquestionably willing to pay her debts and live within her means. This represents the interviewer's summary of Applicant's answers rather than his own evaluation of her circumstances. *See, e.g.*, ISCR Case No. 14-03069 at 3 (App. Bd. Jul. 30, 2015). Applicant states that, without a clearance, she will lose her job. The Directive does not permit us to consider the impact of an unfavorable decision. *See, e.g.*, ISCR Case No. 14-02619 at 3 (App. Bd. Apr. 7, 2016).

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 Ra'anan
Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

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

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