

KEYWORD: Guideline F

DIGEST: We conclude that one challenged finding is erroneous. However, given the totality of the evidence, we conclude that this error did not affect the Judge’s overall decision. Otherwise, the Judge’s findings are sustainable. Adverse decision affirmed.

CASENO: 15-07593.a1

DATE: 02/23/2018

DATE: February 23, 2018

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In Re:)	
)	
-----)	ISCR Case No. 15-07593
)	
)	
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 June 14, 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 hearing.

On October 2, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Richard A. Cefola 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 and Analysis

Applicant works for a Defense contractor and has held a clearance since 2012. Each month he and his wife save about \$3,800. Applicant's SOR lists numerous delinquent debts. The Judge found four of them against Applicant, all of which resulted from medical treatment. The largest was a judgment for over \$137,000. Applicant attributed these debts to a medical emergency that he experienced in 2011, at a time when he had no health insurance. The Judge found that the four medical debts in question had not been resolved.

The Judge concluded that Applicant's financial problems are significant and ongoing. Despite the medical emergency being a circumstance outside his control, the Judge found that Applicant had not demonstrated responsible action. He concluded that there are no clear indications that Applicant's financial problems are under control.

Discussion

Applicant challenges some of the Judge's findings. For example, he states that the Judge erred in finding that he saved \$3,800 a month. We note Applicant's Exhibit C, which states that he and his wife have about that amount left over each month after expenses but save about \$2,300. We also note Applicant's testimony that some months he makes nothing due to not working. Tr. at 24-25. We conclude that the challenged finding is erroneous. However, given the totality of the evidence, we conclude that this error did not affect the Judge's overall decision. Therefore, it is harmless. Applicant challenges the finding that Applicant has held a security clearance since 2012. The Judge's finding is sustainable given Applicant's answer to a question in his security clearance application. Applicant stated that he had been granted access/eligibility in October 2012. Applicant has cited to no harmful error in the Judge's findings. The Judge's material findings are based upon substantial evidence or constitute reasonable inferences that could be drawn from the evidence. *See, e.g.,* ISCR Case No. 14-04724 at 3 (App. Bd. Aug. 18, 2017).

Applicant contends that his circumstances do not show an inability to satisfy debts, an unwillingness to do so, or a history of not meeting financial obligations.¹ We construe this as an argument that his financial circumstances do not raise security concerns. However, given the

¹Directive, Encl. 2, App. A ¶ 19 (a-c).

amount of delinquent debt alleged in the SOR, and given a paucity of evidence of debt resolution,² we find no error in the Judge's conclusion that the evidence raised concerns about Applicant's judgment and reliability. See Directive, Encl. 2, App. A ¶ 18 for the proposition that failure to satisfy debts may impugn an applicant's self-control, judgment, or willingness to follow rules and regulations, thereby raising questions about his or her ability to protect classified information. See, e.g., ISCR Case No. 15-01737 at 3 (App. Bd. Feb. 14, 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."

²Applicant received medical treatment requiring extensive hospitalization. Applicant was not satisfied with the care that he received and informed the hospital that he would not pay his bill. He advised his clearance interviewer that he had "no intention of making payments to the hospital unless he is required to." Item 2, Interview Summary, at 5

Order

The Decision is **AFFIRMED**.

Signed: Michael Ra'an
Michael Ra'an
Administrative Judge
Chairperson, Appeal Board

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

Signed: Charles C. Hale
Charles C. Hale
Administrative Judge
Member, Appeal Board