

KEYWORD: Guideline F

DIGEST: The record as a whole supports the Judge's overall conclusion that Applicant did not meet his burden of persuasion. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 16-03281.a1

DATE: 09/21/2018

DATE: September 21, 2018

In Re:

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Applicant for Security Clearance

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) ISCR Case No. 16-03281  
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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 December 5, 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 June 27, 2018, after considering the record, 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**

The Judge’s findings consisted solely of the following:

Applicant is 41 years old. He is divorced, with two children. In his Answer, he alludes to this being the cause of his current financial difficulties. Applicant admits to ten past-due debts totaling about \$30,269. As he offers nothing further in this regard[,] such as bankruptcy petition, these allegations are found against Applicant. Decision at 2 (internal citations and paragraph formatting omitted).

In the Analysis, the Judge concluded that none of the Guideline F mitigating conditions applied. He stated that, although Applicant made reference to personal problems that were at the root of his financial difficulties, he has not shown responsible action, such as filing for bankruptcy.

### **Discussion**

Applicant cites to evidence of his divorce, a subsequent long-term relationship, and the effect that the latter relationship had on his finances. He argues that he views bankruptcy as a last resort and believes that he has shown responsible action in regard to his debts. Applicant’s appeal argument appears generally to track the information that he provided in his Answer to the SOR. We also note Applicant’s Response to the File of Relevant Material, which consists of a letter from an attorney stating that he will file a bankruptcy petition on Applicant’s behalf. Applicant’s appeal brief does not unequivocally state that he will file for bankruptcy protection, despite the letter from his attorney. Regardless of whether Applicant had other options available to him, the record as a whole supports the Judge’s overall conclusion that Applicant did not meet his burden of persuasion. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record. Moreover, despite the Judge’s rather truncated findings and analysis, Applicant’s arguments are not sufficient to show that the Judge mis-characterized the evidence or otherwise weighed it in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-02391 at 4 (App. Bd. Aug. 7, 2018).

The record supports a conclusion that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, “including a ‘rational connection between the facts found and the choice made.’” *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s adverse 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: Charles C. Hale  
Charles C. Hale  
Administrative Judge  
Member, Appeal Board

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