

KEYWORD: Guideline E; Guideline F

DIGEST: We conclude, however, the Judge’s material findings about those documents “are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. Adverse decision affirmed.

CASENO: 17-00110.a1

DATE: 03/13/2018

DATE: March 13, 2018

In Re: ----- Applicant for Public Trust Position)))))))	ADP Case No. 17-00110
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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 trustworthiness designation. On April 21, 2017, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that

decision–trustworthiness 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 December 19, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Pamela C. Benson denied Applicant’s request for a trustworthiness designation. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge’s decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The SOR alleged that Applicant had eight delinquent debts totaling about \$22,000 and she failed to disclose information about her delinquent debts in her 2015 security clearance application (SCA). Applicant paid one small debt and provided documentation showing two court cases against her were dismissed without providing any further information to show the underlying debts were resolved. For the remaining debts, she did not provide documentation showing any progress towards their resolution or establishing a basis to dispute them. The Judge found in favor of Applicant on the paid debt and against her on the other SOR allegations.

In her appeal brief, Applicant claimed Department Counsel’s representations about documents she submitted are untrue or inaccurate. We conclude, however, the Judge’s material findings about those documents “are supported by such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” Directive ¶ E3.1.32.1. Applicant also contends there is inaccurate information in her credit reports, including duplicate entries for debts, but she failed to show that any of those inaccuracies resulted in any harmful error in the Judge’s findings or conclusions. The balance of Applicant’s arguments amount to a disagreement with the Judge’s weighing of the evidence, which is not sufficient to show that the Judge weighed the evidence in a manner that is arbitrary, capricious, and contrary to law. *See, e.g.*, ADP Case No. 16-01251 at 2 (App. Bd. Jun. 7, 2017).

Regarding the falsification allegation, the Judge noted that Applicant had two associate’s degrees and a bachelor’s degree. The Judge concluded that it was not credible that Applicant misread several questions in her SCA and pointed out that legal action involving some of the debts occurred at, or near, the time she submitted her SCA. In her appeal brief, Applicant raised no allegations of error concerning the Judge’s adverse falsification finding. We note the Judge’s unfavorable security clearance determination is independently sustainable under Guideline E.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. The standard applicable to trustworthiness cases is that is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination “. . . may be granted only when ‘clearly consistent with the interests of the national security.’” *Id.* at 2. *See also Kaplan v. Conyers*, 733 F.3d 1148 (Fed. Cir. 2013), *cert. denied*.

Order

The Decision is **AFFIRMED**.

Signed: Michael Ra'anan
Michael Ra'anan
Administrative Judge
Chairperson, 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