

KEYWORD: Guideline F; Guideline E

DIGEST: Applicant failed to rebut the presumption that the Judge considered all of the evidence in the record and failed to establish the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASE NO: 17-00264.a1

DATE: 02/05/2018

DATE: February 5, 2018

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 17-00264
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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 March 23, 2017, 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 November 17, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

The SOR alleged that Applicant had 13 delinquent debts totaling about \$48,000 and that he falsified his responses on a security clearance application (SCA) by failing to disclose information about his financial problems. In his Responses to the SOR, Applicant admitted all of the SOR allegations. He did not submit a response to Department Counsel's File of Relevant Material (FORM). The Judge found that Applicant indicated an intent to resolve his delinquent debts, but failed to establish a track record of debt resolution and failed to provide sufficient corroborating documentation. Regarding the falsification allegations, the Judge noted that Applicant provided no explanation as to why he did not reveal his delinquent indebtedness on the SCA.

In his appeal brief, Applicant provides matters that were not previously presented to the Judge for consideration, including certain representations about the status of the debts and a letter from an attorney that post-dates the Judge's decision. Such matters constitute new evidence that the Appeal Board cannot consider. Directive ¶ E3.1.29.

In his brief, Applicant resubmitted copies of letters from creditors that he previously provided in his Response to the SOR. To the extent that he is arguing the Judge did not consider record evidence or mis-weighted the evidence, he failed to rebut the presumption that the Judge considered all of the evidence in the record and failed to establish the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 16-00844 at 2 (App. Bd. Jul. 25, 2017). To the extent that he is arguing the Judge erred in her findings of fact, any such error was harmless, *i.e.*, an error not likely to affect the outcome of the case. *See, e.g.*, ISCR Case No. 11-15184 at 3 (App. Bd. Jul. 25, 2013).

Applicant contends that he was questioned by an investigator about a student loan, and the investigator falsified information in his report about Applicant's statements regarding that debt. It is unknown what Applicant is referencing. The summary of Applicant's background interview in the record does not reference a student loan, and none of the SOR allegations appear to pertain to a student loan.

Applicant also states that any discrepancies in his SCA were unintentional. In her findings and analysis, the Judge noted that Applicant admitted the falsification allegations without any explanation as to why he did not disclose his delinquent indebtedness, which included a tax lien and child support arrearages. The record contains substantial evidence to support the Judge's adverse findings on the falsification allegations. *See, e.g.*, ISCR Case 12-03420 at 3 (App. Bd. Jul. 25, 2014).

Applicant has not identified any harmful error in the Judge's decision. 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: William S. Fields
William S. Fields
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