

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 10, 2017, 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 3, 2018, 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, who is 39 years old, has worked for his current employer, a defense contractor, since 2015. He is married with three children. He has held a security clearance since about 2009.

The SOR alleged four past-due debts. Applicant attributed his financial problems to a period of unemployment from December 2012 to June 2013. The Judge found in favor of Applicant on three of the alleged debts and against him on a motorcycle debt that was past due for about \$9,900. The Judge noted that Applicant was given two months after the hearing to address the admitted motorcycle debt and offered nothing further regarding it.¹ In his analysis, the Judge concluded that Applicant’s financial problems were ongoing and he has not demonstrated those problems are unlikely to recur. The whole-person analysis reflects that Applicant has honorably served in the Army National Guard, including two overseas deployments.

Discussion

Applicant argues that the motorcycle debt no longer appears on his credit report. This argument lacks merit. The motorcycle debt first became delinquent in August 2012. Government Exhibit 7. All of the credit reports in the record that post-date 2012 continue to report the motorcycle debt as delinquent. To the extent that he may be arguing the seven-year period for

¹ The transcript of the hearing reflects the following exchange occurred:

[Judge]: . . . I just have a few [questions] regarding the motorcycle. Do you have any documentation showing and supporting your testimony that you’re addressing or trying to deal with this debt?

[Applicant]: Yes, I do, sir.

[Judge]: Okay. Well, that’s something you may want to submit also in the future. [Tr. at 43-44.]

In his post-hearing submission, Applicant did state that he took steps to correspond with the creditor of the motorcycle debt and that he was told the debt had reached the statute of limitations and the creditor was no longer pursuing it. Applicant’s Exhibit A. He provided no corroborating documentation. As we have stated in the past, it is reasonable for a Judge to expect applicants to present documentation about the resolution of specific debts. *See, e.g.*, ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 19, 2016).

reporting this debt has expired under the Fair Credit Reporting Act (15 U.S. C. § 1681), the record evidence does not support that contention.² Moreover, the fact that a debt no longer appears on a credit report does not establish any meaningful evidence as to the disposition of the debt. *See, e.g.*, ISCR Case No. 17-00683 at 2 (App. Bd. Oct. 19, 2018).

Applicant also argues that the Judge did not consider all of the record evidence, misweighed the evidence, and did not properly apply the mitigating conditions and whole-person concept. He cites to such things as his unemployment and his statements that the creditor is no longer pursuing the motorcycle debt. Applicant's arguments, however, are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor are they enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-02488 at 3-4 (App. Bd. Aug. 30, 2018). We give due consideration to the Hearing Office case that Applicant has cited, but it is neither binding precedent on the Appeal Board nor sufficient to undermine the Judge's decision. *Id.* Additionally, the Judge complied with the requirements of the Directive in his whole-person analysis by considering the totality of the evidence in reaching his 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, 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

² Government Exhibit 5 reflects that motorcycle debt was charged off for \$10,102 in January 2013. The Fair Credit Reporting Act provides that the seven-year reporting period for a charged-off debt begins "upon the expiration of the 180-day period beginning on the date of the commencement of the delinquency which immediately preceded the . . . charge to profit and loss, or similar action." 15 U.S.C. § 1681c(c)(1).

The Decision is **AFFIRMED**.

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

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

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