

KEYWORD: Guideline F

DIGEST: Applicant argues that the Judge did not consider her medical expenses, her statements concerning her salary and financial condition, her unemployment, and other things that she believes support her effort to retain her clearance. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record, nor are they sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 17-01320.a1

DATE: 07/31/2018

DATE: July 31, 2018

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In Re:	)	
-----	)	ISCR Case No. 17-01320
	)	
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 May 19, 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 decision on the written record. On April 5, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Thomas M. Crean 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**

Applicant was granted a security clearance in 2005. She was employed by a Defense contractor for over 20 years, but the company lost its contract with the Government. Applicant experienced four months of unemployment before finding another job, albeit one that paid about \$12,000 less than her previous position. This company also lost its contract, but Applicant was able to find her current position, which pays her about \$67,000.

Applicant has numerous delinquent debts, totaling about \$65,000. Applicant was her father’s caregiver, and she attributes her financial problems to her father’s death and consequent loss of his income. She also cites her unemployment and her having taken lower paying jobs as reasons for her financial problems. She stated that she had begun paying, or had paid, certain debts but did not submit documentary corroboration. She was in the process of hiring an attorney to help her file for bankruptcy but did not provide any bankruptcy documents. She intends to pay all of her debts through bankruptcy.

### **The Judge’s Analysis**

The Judge concluded that none of the mitigating conditions apply. Though noting Applicant’s unemployment and her care for her father, the Judge cited to evidence of Applicant’s many years of employment, with only four months of unemployment. He also noted that many of Applicant’s credit card debts were for clothing or retail store, despite her claim to have used credit cards for the purchase of food, medicine, and other necessities. He found that she had submitted limited information about her salary and none about the status of her finances. He stated that she had not submitted evidence of debt payment, nor did she provide details about what she intends to do to resolve her financial problems. She submitted no documentation to show that she had actually begun the process of filing for bankruptcy. He concluded that her presentation in response to the File of Relevant Material (FORM) was in essence a promise to address her problems in the future.

### **Discussion**

Applicant's appeal brief includes reference to matters from outside the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant cites to her Answer to the SOR and Response to the FORM, claiming that the Judge did not consider the matters contained therein. She argues, for example, that the Judge did not consider her medical expenses, her statements concerning her salary and financial condition, her unemployment, and other things that she believes support her effort to retain her clearance. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record, nor are they sufficient 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. 16-01077 at 3 (App. Bd. Apr. 25, 2018).

To the extent that Applicant is challenging the sufficiency of the Judge's findings, we conclude that his findings capture the essential facts as set forth in the record. The Judge's material findings 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 states that she did not know that there are attorneys who can assist applicants in presenting their cases at a DOHA proceeding. However, Applicant was advised of her right to hire counsel. There is no reason to believe that Applicant's decision to represent herself was other than knowing and intelligent. *See, e.g.*, ISCR Case No. 14-02347 at 4 (App. Bd. Aug. 28, 2015).

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

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

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