

KEYWORD: Guideline B; Guideline F

DIGEST: Applicant contends the Judge committed factual and legal errors. Some of his arguments are based on representations that are not in that record. Those representations constitute new evidence that the Appeal Board cannot consider. Directive ¶ E3.1.29. Adverse decision affirmed.

CASENO: 17-01562.a1

DATE: 03/13/2018

DATE: March 13, 2018

In Re:)	
)	
-----)	ISCR Case No. 17-01562
)	
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 24, 2017, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that

decision—security concerns raised under Guideline B (Foreign Influence) and 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 December 8, 2017, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Noreen A. Lynch denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge committed factual and legal errors in her decision. Consistent with the following, we affirm the decision. The Judge’s favorable findings under Guideline B are not discussed further because they have not been raised as an issue on appeal.

The Judge’s Findings of Fact and Analysis

Applicant admitted the SOR allegations that he had a judgment entered against him for about \$81,000 in 2012 and another entered against him for about \$5,000 in 2014. He attributed his financial problems to purchasing a second home in 2006 without first selling his first home. He could not pay both mortgages. He encounter problems with renters of the first home and a bank’s refusal to refinance a loan. He and his wife also lost a child during her pregnancy. His wages were garnished, but no details are contained in the record.

Applicant lost the first home in 2008. The judgments are arguably due to circumstances beyond his control, but he has not resolved the large judgment and is not making any payments towards it. He is trying to resolve the other judgment, but there is no payment plan in place to resolve it.

Discussion

Applicant contends the Judge committed factual and legal errors. Some of his arguments are based on representations that are not in that record. Those representations constitute new evidence that the Appeal Board cannot consider. Directive ¶ E3.1.29. Based upon our review, 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.” *See*, Directive ¶ E3.1.32.1. The balance of his 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.*, ISCR Case No. 14-06440 at 4 (App. Bd. Jan. 8, 2016). Applicant failed to establish that the Judge committed any harmful error.

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: 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