

KEYWORD: Guideline F

DIGEST: Applicant describes his difficulties in working out a repayment plan with the IRS; asserts that his problems were not due to irresponsibility; and notes that his credit reports do not show any additional financial delinquencies. He also cites to his character evidence. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record or to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 17-01791.a1

DATE: 09/13/2018

DATE: September 13, 2018

In Re:)
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Applicant for Security Clearance)
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ISCR Case No. 17-01791

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 August 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 June 21, 2018, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Jennifer Goldstein 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’s SOR lists several delinquent debts. The ones that the Judge found against him were a \$5,000 judgment owed to a bank, a Federal tax lien in the amount of about \$25,600, and a collection account for a little over \$4,000 resulting from an automobile repossession. Applicant speculates that the judgment in favor of the bank was for a credit card. He has never paid it, and it is unresolved. The tax lien resulted from Applicant’s having failed to ensure that the correct amounts were withheld from his pay. Applicant entered into installment agreements at various times but they were cancelled due to nonpayment. In the summer of 2017 Applicant hired a lawyer to assist him in resolving his tax problems. The firm requested a payment agreement with the IRS but as of the close of the record one had not been approved. Applicant has not been able to reach an agreement with the creditor concerning the automobile repossession. Applicant attributed his financial problems to the economic downturn of a few years ago as well as to a reduction in the hours he was allowed to work, resulting in a diminution of pay. His wife also experienced unemployment from early 2014 until early 2016.

The Judge acknowledged that Applicant’s financial problems were affected by circumstances outside his control, such as a loss of income. However, she concluded that Applicant had not demonstrated responsible action in regard to his debts. Although Applicant has contacted a law firm to resolve his tax liability, she noted that there is no evidence that any payments have been received. She stated that there is no evidence that he is making a good-faith effort to pay his creditors.

Discussion

Applicant’s brief cites to matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. Regarding matters that are properly before us, Applicant describes his difficulties in working out a repayment plan with the IRS; asserts that his problems were not due to irresponsibility; and notes that his credit reports do not show any additional financial delinquencies. He also cites to his character evidence. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record or 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. 17-02391 at 4 (App. Bd. Aug. 7, 2018).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. A person who fails repeatedly to fulfill his or her legal obligations, such as paying taxes when due, does not demonstrate the high degree of good judgment and reliability required of those granted access to classified information. *See, e.g.,* ISCR Case No. 17-01256 at 3 (App. Bd. Aug. 3, 2018). 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: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

Signed: Charles C. Hale

Charles C. Hale
Administrative Judge
Member, Appeal Board