

KEYWORD: Guideline F

DIGEST: Applicant arguments amount to a disagreement with the Judge’s weighing of the evidence. A party’s disagreement with the Judge’s weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 17-02294.a1

DATE: 05/23/2018

DATE: May 23, 2018

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In Re:	)	
-----	)	ISCR Case No. 17-02294
	)	
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 July 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 decision on the written record. On March 5, 2018, after considering the record, Administrative Judge Candace Le'i Garcia 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 retired from the U.S. military after 20 years of service and retired again from the Federal Government after 18 years of public service. Since then, he has experienced periods of unemployment, including since 2014. The SOR alleged that Applicant had two judgments totaling about \$35,000 and two past-due consumer accounts totaling about \$4,000. Credit reports verify these debts. He stated he was in the process of disputing one debt, but the documents he provided had a different account number than the alleged debt. He stated that he communicated with the other creditors and intended to enroll those debts in a debt relief program once he obtained employment.

While Applicant's periods of employment constitute conditions beyond his control, he failed to show that he acted responsibly under the circumstances. He did not provide documentation to show that he paid or otherwise resolved the alleged debts. There is insufficient evidence to conclude that his financial problems are unlikely to recur, and they continue to cast doubt on his current reliability, trustworthiness, and good judgment.

### **Discussion**

In his appeal brief, Applicant states that he paid his debts in a timely manner while he was employed. He argues that his unemployment caused his financial problems and that he has not disregarded his debts, noting that he contacted the creditors and explained his situation to them. He also notes that the lack of a security clearance has hindered him in obtaining a job. He further argues that, over the course of his 40-year career, he has been known for honesty and integrity.

Applicant arguments amount to a disagreement with the Judge's weighing of the evidence. As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. A party's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 15-00650 at 2 (App. Bd. Jun. 27, 2016).

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: Michael Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, 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