

KEYWORD: Guideline F

DIGEST: Applicant claims the lien is not for unpaid taxes but resulted from a lapse in mandatory vehicle insurance coverage. He also claims he is disputing that debt. The Judge’s findings and conclusions about the tax lien are based on “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.” Adverse decision affirmed.

CASENO: 17-02974.a1

DATE: 09/13/2018

DATE: September 13, 2018

In Re:  -----  Applicant for Security Clearance	) ) ) ) ) ) )	ISCR Case No. 17-02974
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**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 September 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 June 26, 2018, after the hearing, Administrative Judge Braden M. Murphy denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant served in the military for over 20 years and, since then, has worked for Federal contractors. His security clearance was last granted in 2002. The SOR alleged that Applicant had three delinquent debts. These included a collection account for about \$3,000, a charged-off account for about \$1,800, and a state tax lien for about \$18,300. Applicant admitted each debt with brief explanations. He provided no documents showing payments toward the debts or reflecting his current financial situation. The Judge found against him on each debt.

In his appeal brief, Applicant claims the lien is not for unpaid taxes but resulted from a lapse in mandatory vehicle insurance coverage. He also claims he is disputing that debt. In the decision, the Judge discounted Applicant’s claim about the nature of the lien and concluded it was more likely the result of Applicant and his wife failing to file or pay their state income taxes. We note that Department Counsel’s File of Relevant Material (FORM) contains a Notice of Lien of Judgment for Unpaid Taxes filed by the state for the exact amount specified in the SOR allegation. FORM Item 7. From our review of the record, the Judge’s findings and conclusions about the tax lien are based on “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 also raises issues about his background investigation and character references. In discussing his security clearance status, he notes that he was interviewed by four different investigators who each seemed to start from the beginning, and he believes they may have inadvertently left out information from their reports. He also argues that the Judge should have had access to his character references to verify he was not a security risk. The FORM does not contain summaries of the interviews with Applicant’s character references. We note the FORM was mailed to Applicant on January 8, 2018. He acknowledged receipt of it on January 19, 2018. He was given 30 days from its receipt to file objections or submit additional matters. He was advised that, if he did not file objections or submit additional matters, his case would be assigned to a Judge “for a determination based **solely** on this file of relevant material.” [Emphasis added.] FORM at 5. Applicant did not submit a response to the FORM. If Applicant wanted the Judge to consider matters that were not contained in the FORM, it was his obligation to provide that information. The issues Applicant has raised about his background investigation and character references merit no relief.

The balance of Applicant’s arguments amount to a disagreement with the Judge’s weighing of the evidence. These arguments are not sufficient to show that the Judge weighed the evidence 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 also requests that his case be remanded so that he can present

supporting evidence. The Appeal Board is only authorized to remand a case to correct an identified error. Directive ¶ E3.1.33.2. Applicant has failed to establish any error that warrants a remand.

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