

KEYWORD: Guideline E; Guideline F

DIGEST: We conclude that the Judge’s material findings are based upon substantial evidence or constitute reasonable inferences from the evidence. Applicant has not cited to a harmful error in the Judge’s decision. Adverse decision affirmed.

CASENO: 17-02918.a1

DATE: 09/17/2018

DATE: September 17, 2018

In Re:)	
)	
-----)	ISCR Case No. 17-02918
)	
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 October 27, 2017, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing, which he subsequently withdrew, requesting instead a decision on the written record. On June 13, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Philip J. Katauskas 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. The Judge’s favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm.

The Judge’s Findings of Fact and Analysis

Applicant is divorced. He has three sons, two of whom live with his former spouse. Applicant served on active duty in the U.S. military, as well as in the reserves. Since August 2011 he has been self-employed as a Defense contractor. His SOR lists four delinquent debts plus a Chapter 13 bankruptcy filing that was eventually dismissed. Applicant admitted the debts and also admitted the bankruptcy allegation with an explanation. He advised that he had signed the bankruptcy petition in an effort to avoid foreclosure on his house. Applicant attributed his financial problems to a divorce, loss of employment, and inability to find subsequent employment at an equivalent level of compensation.

The Judge noted Applicant’s divorce and unemployment, which were beyond his control. He stated, however, that Applicant had submitted no documents to show that he had paid his delinquent debts. The Judge concluded that none of the mitigating conditions apply.

Discussion

Applicant states that he has two additional children, both of whom are from his relationship with his fiancée, that were not noted in the Judge’s decision. Other than that, he does not challenge the Judge’s findings of fact. We conclude that the Judge’s material findings are based upon substantial evidence or constitute reasonable inferences from the evidence. Applicant has not cited to a harmful error in the Judge’s decision. *See, e.g.*, ISCR Case No. 16-02640 at 3 (App. Bd. Jul. 2, 2018). Applicant cites to his many years of employment, his having held a clearance without incident or concern, the care he takes with his finances, and the underlying circumstances for his failure to have made sufficient payment on his child support obligations.¹ Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See,*

¹The SOR identifies the creditors for the four debts that it alleges, but it does not specify what the underlying purpose of the debt was. It is not clear whether any of the debts were for child support.

e.g., ISCR Case No. 17-02391 at 4 (App. Bd. Aug. 7, 2018). Applicant notes the financial difficulties he has experienced because he has lost his clearance. However, the Directive does not permit us to consider the impact that an unfavorable decision may have upon an applicant. *See, e.g.*, ISCR Case No. 17-01950 at 2 (App. Bd. Aug. 7, 2018).

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

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

Signed: Charles C. Hale
Charles C. Hale
Administrative Judge
Member, Appeal Board