

KEYWORD: Guideline E; Guideline F

DIGEST: While *pro se* applicants cannot be expected to act like lawyers, they are expected to take timely, reasonable steps to protect their rights under the Directive. Adverse decision affirmed.

CASENO: 17-03689.a1

DATE: 09/21/2018

DATE: September 21, 2018

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In Re:)	
)	
-----)	ISCR Case No. 17-03689
)	
Applicant for Security Clearance)	
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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 December 12, 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 decision on the written record. On July 3, 2018, after considering the record, Administrative Judge Carol G. Ricciardello 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 the sole Guideline E allegation have not been raised as an issue on appeal and are not discussed further below. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant became a U.S. citizen in 1999. He worked for the U.S. Government from 2005 to 2011 and for Federal contractors since then. The SOR alleged that Applicant has 13 delinquent debts totaling about \$71,000. The debts, which he attributed to insufficient income, began to become delinquent in about 2014.

In an interview in 2017, Applicant told an investigator that he did not have enough money to pay his debts, received financial support from his son, and hired a debt consolidation company to assist him in negotiating settlement agreement with creditors. In responding to the SOR, he admitted the debts, indicated installment agreements were being negotiated for each debt, and provided copies of checks showing three payments ranging from \$29 to \$145 were made on separate debts (SOR ¶¶ 1.c, 1.d, and 1.m). In responding to Department Counsel’s File of Relevant Material (FORM), he provided a letter from an attorney confirming payment plans existed for those three debts and submitted documents showing he received settlement offers for four other debts, but did not present proof that he accepted those offers or made additional payments towards the debts. He provide no information about the remaining debts or his current finances.

The Judge’s Analysis

Applicant has made minimal efforts to resolve three delinquent debts. Insufficient information was submitted to establish that his financial problems are being resolved or are under control; that he has acted responsibly under the circumstances; and that these problems are unlikely to recur.

Discussion

Applicant’s brief includes matters that are not contained in the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29.

Applicant asserts the unfavorable clearance decision is based on a false assertion, notes he provided copies of draft settlement agreements and the first payments on some debts, and states he was not aware that he had to submit copies of all payment checks. Applicant's assertions do not merit any relief. While *pro se* applicants cannot be expected to act like lawyers, they are expected to take timely, reasonable steps to protect their rights under the Directive. ISCR Case No. 12-02371 at 3 (App. Bd. Jun. 30, 2014). Having admitted the SOR allegations involving the delinquent debts, Applicant was responsible for presenting evidence to rebut, explain, extenuate, or mitigate the resulting security concerns. Directive ¶ E3.1.15. It was also reasonable for the Judge to expect Applicant to present documentation showing his efforts to resolve the alleged debts. *See, e.g.*, ISCR Case No. 07-10310 at 2 (App. Bd. Jul. 30, 2008). Applicant has failed to establish that the Judge erred in her analysis of the evidence.

Applicant also argues that he is a reliable employee, discusses the mitigating reasons for his financial problems, and highlights his efforts to resolve the delinquent debts. These arguments amount to a disagreement with the Judge's weighing of the evidence and 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).

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

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