

The Department of Defense (DoD) declined to grant Applicant a security clearance. On February 8, 2018, 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 July 2, 2018, after considering the record, Administrative Judge Robert J. Kilmartin 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

Applicant is an employee of a Federal contractor. She honorably served in the military and reported being granted security clearances in 1984 and 2000. In her 2015 security clearance application (SCA), Applicant disclosed her failure to file her Federal and state income tax returns for 2011 and 2012. She attributed those failures to being distracted by work instability and misplacing her W2s. Her 2011 Federal and state tax returns were submitted in September 2017. Her 2012 Federal tax return was submitted in September 2014.¹ Her IRS tax transcripts for 2011 and 2012 show she owes no balance.

A credit report reflects that Applicant has a charged-off auto loan that has been delinquent since 2015.² She entered into an agreement with the creditor to make monthly payments of \$350 on this debt and provided proof she made one payment. She attended a financial course at her church.

The Judge’s Analysis

Applicant filed her 2011 Federal income tax return about five years late, while her 2012 Federal income tax return was filed about one year late. She has not provide an adequate explanation for those delays. By making only one payment on the delinquent debt, she failed to establish a track record of consistent payments. She has not shown that her financial problems are under control or occurred under circumstances unlikely to recur.

Discussion

In her appeal brief, Applicant makes arguments based on matters that are not in the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29.

Applicant also contends that the Judge failed to apply properly the adjudicative guidelines, including the whole-person concept. She notes that she disclosed her financial problems, attended

¹ The Judge made no finding of fact about Applicant filing her 2012 state income tax return.

² The SOR alleges the auto loan was charged off in the approximate amount of \$2,300.

financial counseling, filed the tax returns in question, and made a good-faith effort to resolve the delinquent loan. Her arguments amount to a disagreement with the Judge’s weighing of the evidence and are not sufficient to show the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-06440 at 4 (App. Bd. Jan. 8., 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