

KEYWORD: Guideline F

DIGEST: Applicant was terminated from a job for refusing to complete Federal income tax forms. He also has seven unsatisfied state tax liens. Noting Applicant’s contention that he had completed the Federal tax forms, the Judge cited to record evidence establishing the contrary. Despite Applicant’s argument that the state tax liens were “unfounded,” the Judge stated that they were supported by the record. Adverse decision affirmed.

CASENO: 17-04233.a1

DATE: 10/25/2018

DATE: October 25, 2018

In Re: ----- Applicant for Security Clearance)))))))	ISCR Case No. 17-04233
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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 January 17, 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 August 21, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Phillip 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 findings contained errors and whether the Judge’s overall decision failed to consider the entirety of the record evidence. Consistent with the following, we affirm.

The Judge’s Findings of Fact and Analysis

Applicant was terminated from a job for refusing to complete Federal income tax forms. He also has seven unsatisfied state tax liens. Noting Applicant’s contention that he had completed the Federal tax forms, the Judge cited to record evidence establishing the contrary. Despite Applicant’s argument that the state tax liens were “unfounded,” the Judge stated that they were supported by the record. The Judge found that Applicant has had “a problematic financial history when it comes to his state income tax obligations and those financial problems continue to this day.” Decision at 5. He stated that there is no evidence to suggest that Applicant’s state tax problems were caused by circumstances beyond his control or that any other mitigating condition applied. The Judge stated that Applicant’s reasons for having failed to complete his Federal tax forms were frivolous. He concluded that Applicant failed to meet his burden of persuasion as to mitigation.

Discussion

Applicant’s brief includes new evidence, which we cannot consider. Directive ¶ E3.1.29. Many of his arguments reflect ones that he made in answering the SOR and in response to the File of Relevant Material. These arguments appear to question the legal authority of the government, whether Federal or state, to impose and enforce tax obligations. He also contends that he is not aware of any sufficient basis for the tax liens secured by his state. Many of Applicant’s arguments can properly be characterized as frivolous, as the Judge did. To the extent that Applicant is arguing that the liens are not supported by the evidence, we hold to the contrary. The Judge’s material findings are based upon substantial evidence. *See* ISCR Case No. 17-02145 at 3 (App. Bd. Sep. 10, 2018). Applicant cites to his work history and to an absence of evidence that he has ever committed a security violation. Applicant has not rebutted the presumption that the Judge considered all of the evidence, nor has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.*

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

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