

KEYWORD: Guideline F

DIGEST: Applicant cites to his having held a clearance for many years without incident or concern, the terms of his bankruptcy payment requirement, financial obligations resulting from having children in college, and to his years of service to the DoD. He argues that, with his bankruptcy plan in place, he is well on the way to resolving his debts. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record, nor are they sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Adverse decision affirmed.

CASENO: 18-00621.a1

DATE: 10/23/2018

DATE: October 23, 2018

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In Re: )  
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Applicant for Security Clearance )  
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ISCR Case No. 18-00621

**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 March 22, 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 hearing. On July 30, 2018, after the hearing, Defense Office of Hearings and Appeals (DOHA) 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 has worked for a Federal contractor since 2003. He retired from the U.S. military in 2003 as an E-6 and held security clearances while on active duty. He currently earns about \$95,000 a year. Applicant’s SOR alleges numerous delinquent debts. These include a charged-off home equity loan (\$67,700); a Federal tax lien (\$51,000); student loans (\$17,000 and \$13,000); a debt owed to a credit union (\$31,000); and other credit card or consumer debts. Applicant attributed his financial problems to his wife’s loss of employment, to tax obligations incurred when he withdrew funds from his retirement account to pay for his daughter’s college tuition, and to poor service from a tax preparation firm. After the hearing, Applicant submitted his IRS tax transcripts for 2010 through 2017 as well as a Chapter 13 bankruptcy petition. Applicant filed the petition after the hearing. The tax transcripts show a history of late filing, inaccuracies, and sporadic payments. Under the bankruptcy plan, Applicant is to pay \$1,300 for 60 months. The plan includes Applicant’s tax lien. Other than that, Applicant presented no evidence of payments.

### **The Judge’s Analysis**

The Judge noted evidence of circumstances beyond Applicant’s control, such as his wife’s job loss and the inadequate service he received from the tax firm. However, he concluded that Applicant had not demonstrated responsible action in regard to his debts. For example, his bankruptcy plan was not filed until after the hearing. Other than the bankruptcy, and despite having known about his debts for many years, Applicant has shown no sustained efforts at payment. Though noting Applicant’s military service and his contributions to the DoD, the Judge stated that Applicant had not addressed the SOR allegations in a manner sufficient to meet his burden of persuasion.

### **Discussion**

Applicant cites to his having held a clearance for many years without incident or concern, the terms of his bankruptcy payment requirement, financial obligations resulting from having children in college, and to his years of service to the DoD. He argues that, with his bankruptcy plan in place, he is well on the way to resolving his debts. Applicant’s arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record, nor are they sufficient

to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-02145 at 3 (App. Bd. Sep. 10, 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: Michael Ra’anan  
Michael Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

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

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