

KEYWORD: Guideline F

DIGEST: Applicant's argument amounts to a disagreement with the Judge's weighing of the evidence, which is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. Adverse decision affirmed.

CASENO: 12-05856.a1

DATE: 01/25/2016

DATE: January 25, 2017

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In Re:	)	
	)	
-----	)	ISCR Case No. 12-05856
	)	
	)	
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 September 3, 2015, 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 December 8, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gregg A. Cervi 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’s SOR alleged delinquent debt of about \$37,000, which date back to 2008. It also alleged a Chapter 13 bankruptcy that was dismissed, gambling, and improper use of a company credit card. The debts were for such things as a student loan, medical expenses, telephone services, a judgment for unpaid rent, utility services, and checks returned for insufficient funds. Except for the relatively small one for utilities, none of Applicant’s delinquent debts had been resolved as of the close of the record.

Applicant has suffered periods of abuse and spent time and money trying to get custody of her children. She has been treated for depression, which included treatment for gambling. Applicant gambled about twice a month as a respite from her abusive spouse. She used her company credit card for car repairs and paid the bill. Applicant lives paycheck to paycheck. She has about \$700 in her checking account after expenses and about \$5 in savings. She is paying back a loan from her 401(k). After the hearing she set up a meeting with a financial counselor. Applicant enjoys a good reputation for trustworthiness, dedication, and sincerity.

### **The Judge’s Analysis**

The Judge concluded that Applicant’s gambling was not a compulsive habit and, therefore, did not raise security concerns in and of itself. However, he stated that her gambling was an appropriate matter to be addressed in the whole-person analysis. He also concluded that her aborted bankruptcy filing did not raise concerns. Regarding Applicant’s debts, he concluded that she had shown mitigation only regarding the utility bill. For the remainder, he stated that she had permitted them to remain unresolved for years, despite having been steadily employed since 2004. He concluded that she had not demonstrated a good-faith effort to pay her debts and that she had not provided a reason to believe that her problems will not recur.

In the whole-person analysis, the Judge cited to Applicant’s difficult marriage and the abuse that she suffered therein. However, he stated that this did not explain her many years of delinquent debts. He also noted that she continues to gamble, despite her financial difficulties. The Judge

stated that Applicant’s misuse of a company credit card indicated that she was not in control of her finances.

### **Discussion**

Applicant cites to evidence that she believes supports her effort for a security clearance. This includes her consistent employment, her lack of security infractions despite a history of financial problems, and her difficult personal problems. Applicant argues that she is aggressively tackling her delinquent debts, “utilizing logical solutions suggested by the [Judge].”<sup>1</sup> Applicant’s argument amounts to a disagreement with the Judge’s weighing of the evidence, which is not enough 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. 14-06686 at 2 (App. Bd. Apr. 27, 2016). Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 15-02854 at 2 (App. Bd. Nov. 22, 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, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information 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

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<sup>1</sup>Toward the end of the hearing, the Judge asked Applicant if she had considered using a non-profit credit counselor, possibly through her employer. Tr. at 77. As stated in the findings summary above, Applicant enlisted the services of a counselor after the hearing.

Signed: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board