

KEYWORD: Guideline F

DIGEST: Applicant’s brief includes a substantial information from outside the record, including one document that post-dates the Decision. We cannot consider new evidence on appeal. Applicant cites to efforts at debt resolution, filing of tax returns, etc. Applicant has not rebutted the presumption that the Judge considered all of the record evidence. Neither has Applicant shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Failure to comply with Federal and state tax laws suggests that an applicant has a problem with abiding by well-established Government rules and regulations, voluntary compliance with which is essential for protecting classified information. Adverse decision affirmed.

CASENO: 12-07229.a1

DATE: 01/13/2017

DATE: January 13, 2017

In Re:)	
)	
-----)	ISCR Case No. 12-07229
)	
Applicant for Security Clearance)	

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 August 27, 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 decision on the written record. On October 27, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Michael H. Leonard denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises 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 as a Federal contractor since at least 1999. Divorced, she has three children. She has a bachelor’s degree. Applicant’s SOR lists several delinquent debts for consumer accounts, student loans, a debt to a Federal agency, and a medical expense. In addition, Applicant failed to file Federal and state income tax returns for 2009 through 2013.

Applicant attributed her financial problems to a divorce, a large mortgage loan, and financial assistance to adult children. Applicant failed to provide documentary evidence showing that her delinquent debts had been resolved. Additionally, the delinquent tax filings were “largely unresolved.” Decision at 3. Applicant did, however, submit tax records showing that she had made some progress on her Federal taxes. She submitted nothing regarding her state income tax returns.

The Judge’s Analysis

The Judge found that one debt, the medical bill, had been resolved. He stated that Applicant had done little if anything, however, to address the remaining allegations. He noted evidence that Federal debts, such as the student loans, were the subject of garnishment orders, “which belies a good-faith effort to pay.” *Id.* at 6. He found her tax issues to be of particular concern. Although she had filed Federal and state returns for 2010 and 2011, those for 2009, 2012, and 2013 were still outstanding. The Judge stated that Applicant had shown poor judgment over the years, as reflected in her willful neglect of her tax obligations. He concluded that Applicant’s tax problems are too longstanding and too recent to permit a favorable decision.

Discussion

Applicant’s brief includes a substantial amount of information from outside the record, including at least one document that post-dates the Decision. We cannot consider new evidence on

appeal. Directive ¶ E3.1.29. Applicant cites to efforts at debt resolution, the garnishment actions against her, her filing of tax returns, etc. 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). Neither has Applicant shown 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).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. Failure to comply with Federal and state tax laws suggests that an applicant has a problem with abiding by well-established Government rules and regulations, voluntary compliance with which is essential for protecting classified information. *See, e.g.*, ISCR Case No. 14-06686, *supra*, at 2. “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 Y. Ra’anan
Michael Y. 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