

KEYWORD: Guideline F

DIGEST: The Judge's whole person analysis concludes that Applicant is making reasonable efforts to pay her debts off and live within her means. There is a rational connection between the facts found and the favorable decision. Favorable decision affirmed.

CASENO: 06-12930.a1

DATE: 03/17/2008

DATE: March 17, 2008

In Re:	)	
	)	
-----	)	ISCR Case No. 06-12930
	)	
Applicant for Security Clearance	)	
	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

Ray T. Blank, Jr., Esq., Department Counsel

**FOR APPLICANT**

*Pro Se*

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On November 29, 2006, DOHA 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 August 6, 2007, after the hearing, Administrative Judge Mary E. Henry granted Applicant’s request for a security clearance. Department Counsel filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Department Counsel raises the following issues on appeal: whether the Judge erred in concluding that the Government had failed to meet its burden of production regarding certain of Applicant’s debts; whether the Judge’s application of Financial Considerations Mitigating Conditions was arbitrary, capricious, and contrary to law; and whether the Judge’s whole-person analysis was arbitrary, capricious, and contrary to law. Finding no harmful error, we affirm the Judge’s decision.

The Judge found that Applicant, an employee of a defense contractor, has numerous unsatisfied debts. Much of this debt originated during periods of unemployment in the 1990s. Applicant has not incurred substantial debt or unpaid loans in the past seven years. In addition, she no longer uses credit cards, paying cash instead. She has retained the services of a financial counseling agency to assist her in resolving her debt problems.

The Board has examined the Judge’s decision in light of the record as a whole. Department Counsel argues that the Judge’s application of Guideline F mitigating conditions was error, given the ongoing nature of the debts and Department Counsel’s view that Applicant has not approached debt resolution in a reasonable manner. The Board notes that an applicant is not required to show that she has completely paid off her indebtedness, only that she has established a reasonable plan to resolve her debts and has “taken significant actions to implement that plan.” ISCR Case No. 04-09684 at 2-3 (App. Bd. Jul. 6, 2006). In this case, the Judge gave Applicant partial credit under the mitigating conditions as to the evidence she provided. It is the Judge’s whole-person analysis, which concludes that Applicant is making reasonable efforts to pay her debts off and to live within her means, that constitutes “a rational connection between the facts found” and her favorable decision. *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983). Therefore, even if individual mitigating conditions do not *per se* justify the grant of a security clearance to Applicant, the Board concludes that, on the facts of this case, the Judge’s favorable security clearance decision is sustainable based on her whole-person analysis. The Board need not agree with a judge’s decision in order to find it sustainable. ISCR Case No. 06-23881 at 2 (App. Bd. Nov. 2, 2007). Any error in the Judge’s conclusion regarding the Government’s burden of production is harmless. *See* ISCR Case No. 02-29143 at 3 (App. Bd. Jan. 12, 2005). Accordingly, the Judge’s favorable decision is neither arbitrary, capricious, nor contrary to law.

**Order**

The Judge's favorable security clearance decision is AFFIRMED.

Signed: Jean E. Smallin

Jean E. Smallin  
Administrative Judge  
Member, Appeal Board

Signed: William S. Fields

William S. Fields  
Administrative Judge  
Member, Appeal Board

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board