

KEYWORD: Guideline F

DIGEST: We give due consideration to the Hearing Office case that Applicant has cited. However, each case must be decided on its own merits. This case is not sufficient to undermine the Judge's decision. Adverse decision affirmed.

CASENO: 12-05959.a1

DATE: 04/06/2016

DATE: April 6, 2016

_____)	
In Re:)	
)	
-----)	ISCR Case No. 12-05959
)	
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On July 10, 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 January 28, 2016, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Darlene D. Lokey Anderson 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 financial problems go back many years. For example, in the early 1990s, he drove on a suspended license and failed to appear in court in response to warrants. His wages were garnished to pay child support arrears, and in 1996, Applicant turned in a truck he had purchased only 24 hours previously, resulting in a \$9,000 deficiency. In addition, Applicant presented evidence that a tenant had damaged one of the houses he owned.

His SOR lists five debts, two of which the Judge resolved in Applicant’s favor. The three that the Judge found against him included two default judgments pertaining to the damaged rental property mentioned above and a foreclosure on a time share. These three debts were outstanding at the close of the record. In addition to the SOR debts, Applicant has delinquent mortgage accounts and medical bills that had been sent to collection. Applicant is separated from his third wife and is supporting two minor children. Applicant’s current supervisor describes his work performance as “phenomenal.” Decision at 4. He enjoys a good reputation for responsibility and trustworthiness.

The Judge’s Analysis

As stated above, the Judge resolved two of the five SOR debts in Applicant’s favor. For the remaining three, she concluded that he had not submitted enough evidence to demonstrate rehabilitation. She stated that he does not have a “concrete understanding of his financial responsibilities and has not sufficiently addressed his delinquent debts in the SOR.” *Id.* at 6-7. The Judge cited to evidence that some of Applicant’s difficulties may have arisen from circumstances outside his control. However, she concluded that he had not demonstrated responsible action in regard to his debts. She stated that he ignored his problems, spent money that he did not have, and set up no payment plans. The Judge concluded that none of the mitigating conditions fully applied.

Discussion

Applicant contends that the Judge did not consider all of the evidence in the record. Among other things, he cites to his having resolved two of the SOR debts, his professional reputation, the circumstances underlying his debts, etc. The Judge made findings about the evidence that Applicant

has cited and addressed it in her Analysis. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 14-06093 at 3 (App. Bd. Dec. 4, 2015). We give due consideration to the Hearing Office case that Applicant has cited. However, each case must be decided on its own merits. This case is not sufficient to undermine the Judge’s decision. *See, e.g.*, ISCR Case No. 14-03747 at 3 (App. Bd. Nov. 13, 2015). The Judge’s whole person analysis complies with the requirements of Directive ¶ 6.3, in that she considered the totality of the evidence in reaching her decision. *See, e.g.*, ISCR Case No. 14-02806 at 4 (App. Bd. Sep. 9, 2015).

The Judge examined the relevant data 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 Y. Ra’anan
Michael Y. Ra’anan
Administrative Judge
Chairperson, 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