

KEYWORD: Guideline F

DIGEST: Applicant relies on new evidence that the Board cannot consider. Adverse decision affirmed.

CASENO: 12-07393.a1

DATE: 06/26/2015

DATE: June 26, 2015

In Re:	)	
	)	
-----	)	ISCR Case No. 12-07393
	)	
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 November 6, 2014, 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 April 14, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Robert J. Tuider 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 been employed by a Defense contractor since 2010. He previously held a security clearance from 1990 to 2005. A high school graduate, Applicant served in the military from 1985 to 1987 and in the Guard for two years thereafter. Divorced from his first wife, Applicant remarried in 2014.

Applicant's SOR contains eight allegations of delinquent debt for such things as an automobile repossession, cable services, a credit card, etc. Applicant attributes his financial problems to his divorce and to his former spouse's mishandling of their finances. He also was unemployed for brief periods in 2008 and 2010. Although Applicant provided information that he paid some of his debts, he had not resolved two judgments against him or the largest debts alleged in the SOR. The Judge found that Applicant had not presented evidence that he had included a cancelled debt on his tax returns. The Judge also found that there is no evidence that Applicant had received counseling or budgeting assistance.

Applicant is in the process of selling property belonging to him, the proceeds of which he plans to use for debt resolution. He claims to be current on his other monthly expenses. He has a monthly remainder of \$2,960.

Applicant submitted a character reference describing him as a hard worker, involved father, and person of good moral character.

### **The Judge's Analysis**

Though clearing Applicant of the three debts he had paid off, he Judge concluded that Applicant had not mitigated the concerns arising from the remainder of them. He stated that the record shows that Applicant has done little about these debts and/or failed to provide sufficient evidence from which to conclude that he has a reasonable plan to resolve them. Although noting that an adverse decision is not a determination that an applicant is disloyal or lacking in patriotism, the Judge concluded that Applicant had not met his burden of persuasion.

### **Discussion**

Applicant's brief includes matters not contained in the record, including a number of documents that post-date the Judge's decision. We cannot consider new evidence on appeal. Directive ¶ E3.1.29. Applicant's brief also draws attention to evidence he had provided in his answers to DOHA interrogatories as well as his reply to the SOR and his response to the File of Relevant Material. The Judge made findings about many of the things Applicant has cited to. His argument is not enough to show that the Judge failed to consider all of the evidence in the record or that he mis-weighed the evidence. *See, e.g.*, ISCR Case No. 14-01669 at 3 (App. Bd. Jan. 29, 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 Ra'anan  
Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: Jeffrey D. Billett  
Jeffrey D. Billett  
Administrative Judge  
Member, Appeal Board

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