

KEYWORD: Guideline f

DIGEST: The Board does not read sentences in isolation. Adverse decision affirmed.

CASENO: 14-00714.a1

DATE: 05/27/2015

DATE: May 27, 2015

In Re:	)	
	)	
-----	)	ISCR Case No. 14-00714
	)	
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 April 25, 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 hearing. On March 11, 2015, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Edward W. Loughran 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 works for a Defense contractor. Married with two adult children, he has held his current employment since August 2013. Applicant has a bachelor's degree.

Applicant has several delinquent debts, including a Federal tax lien for \$15,797, filed against him in 2007. Applicant stated that he owes about \$35,000 for tax years 2003, 2004, 2007, and 2011. The IRS has agreed to a repayment plan of \$712 a month. This plan has yet to be implemented, because someone filed a tax return in Applicant's name in 2013. After this is resolved, Applicant will start paying the IRS. The IRS levied about \$3,000 from his wages.

Applicant also fell behind on his mortgage payments during a period of unemployment. He and his wife filed for Chapter 13 bankruptcy. The petition was dismissed and refiled several more times until it was finally dismissed in 2008. The house was eventually lost to foreclosure.

Applicant has several judgments against him. One was in favor of his landlord in 2009. Applicant has made no payments on this judgment and has been unable to locate the landlord, who has moved to another state. Applicant has also had two vehicles repossessed, resulting in deficiency balances. He has offered to settle, but the creditors have not accepted his offers. Applicant has settled another debt and entered into a repayment plan for yet another, and he paid a delinquent parking ticket from 2008 in May 2014. Applicant has other debts that he has not resolved.

Applicant states that his financial problems began with his and his wife's periods of unemployment. He also incurred expenses connected with his father's funeral. He believes that his finances have improved since he started his job. He has received financial counseling.

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

The Judge noted evidence of unemployment and Applicant's father's funeral expenses, which he concluded were beyond Applicant's control. However, he also concluded that Applicant had not demonstrated responsible action in regard to his debts. The Judge characterized Applicant's presentation as a promise to pay debts in the future, which is not a substitute for a track record of debt resolution. He stated that the evidence was not sufficient to show that Applicant's debts will be resolved within a reasonable time. The Judge concluded that Applicant's financial problems are ongoing and continue to cast doubt on his reliability, trustworthiness, and good judgment.

## Discussion

Applicant argues that he cannot begin to pay his delinquent taxes until he resolves the questions surrounding the fraudulent filing of his 2013 return, citing to his testimony in which he advised the Judge of this matter. He states that he did not know that he had to resolve all of his debts within a specific period of time. An applicant does not have to be debt-free or develop a plan for paying all of his debts immediately. *See, e.g.*, ISCR Case No. 08-06567 at 3 (App. Bd. Oct. 29, 2014). Applicant points to one sentence in which the Judge stated that Applicant's debts did not appear to be on track for payment within a reasonable time. We do not read sentences in isolation. We do not interpret the challenged language as meaning that the Judge contravened settled precedent. Rather, we take it to mean that Applicant's case in chief consisted essentially of promises for future debt resolution, with little to show by way of an existing and meaningful track record. *See, e.g.*, ISCR Case No. 11-04176 at 2-3 (App. Bd. Dec. 17, 2012) (Promises to pay off delinquent debts in the future are not a substitute for a track record of paying debts in a timely manner and otherwise acting in a financially responsible manner). The Judge made findings about Applicant's 2013 tax problem and other evidence favorable to him. However, given the evidence and analysis as a whole, the Judge's adverse decision is consistent with the record that was before him. Applicant has not rebutted the presumption that the Judge considered all of the evidence or that he misweighed the evidence. *See, e.g.*, ISCR Case No. 14-01941 at 3 (App. Bd. Mar. 30, 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