

KEYWORD: Guideline F

DIGEST: Applicant’s assertions that he has been unable to reach his creditor are not sufficient to rebut the presumption that the Judge considered all of the evidence. Adverse decision affirmed.

CASENO: 14-01509.a1

DATE: 01/29/2015

DATE: January 29, 2015

In Re:	)	
	)	
-----	)	ISCR Case No. 14-01509
	)	
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 June 16, 2014, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended)

(Directive). Applicant requested a decision on the written record. On November 13, 2014, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Arthur E. Marshall, Jr., denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge failed to consider all of the evidence in the record; whether the Judge mis-weighed the evidence; and whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. The Judge's favorable findings under Guideline E are not at issue in this appeal. Consistent with the following, we affirm the Judge's decision.

### **The Judge's Findings of Fact**

The Judge made the following findings pertinent to the issues raised on appeal. Applicant has worked for his current employer, a Defense contractor, since late 2013. A high school graduate who has taken some post-secondary courses, he served in the U.S. military. Married, Applicant has two adult children and two minor children.

In 2006 or 2007, Applicant co-signed a student loan for a friend. Applicant did not monitor his friend's payments but assumed they were being timely made. At some point, he discovered that she was not making payments, so he contacted her. She told him that she was working with the creditor. Applicant claims that he got in touch with the creditor himself, though there is no corroboration for this. The loan is in collection and the balance exceeds \$25,000.

In his clearance interview, Applicant advised that he did not know when the debt became delinquent. He did not dispute the debt but has done nothing about it, as he does not consider it to be his. This interview occurred after he had contacted one of the three credit reporting agencies to state that he had not been informed that the debt was delinquent.

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

In evaluating Applicant's case for mitigation, the Judge cited to evidence that Applicant had not disputed the legitimacy of the debt and had done nothing to resolve it because he believes that it is not his. The Judge concluded that none of the mitigating conditions applied. In the whole-person analysis, the Judge noted Applicant's educational background, his military service, and other things. He stated that there is no corroboration for Applicant's claim to have inquired with the creditor about the loan. The Judge characterized Applicant's conduct as having abdicated his responsibility.

### **Discussion**

In an effort to clarify what he believes are ambiguities in the record, Applicant cites to favorable evidence, such as his having held a clearance for a number of years, his service in the military, and his belief that his friend had been making payments on the loan. He states that he had

not been able to get in touch with the person who owns the debts. Applicant's appeal brief is not sufficient to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 11-10255 at 4 (App. Bd. Jul. 28, 2014). Neither is it sufficient to show that the Judge's weighing of the evidence was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 14-00173 at 3 (App. Bd. Aug. 8, 2014). Applicant states that his job requires a clearance. However, we are not able to consider the impact that an unfavorable decision may have on an applicant. *See, e.g.*, ISCR Case No. 11-13180 at 3 (App. Bd. Aug. 21, 2013).

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: William S. Fields  
William S. Fields  
Administrative Judge  
Member, Appeal Board

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