

KEYWORD: Guideline F

DIGEST: There is a rebuttable presumption that the Judge considered all the evidence. Adverse decision affirmed.

CASENO: 14-01945.a1

DATE: 06/12/2015

DATE: June 12, 2015

In Re:)
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-----) ISCR Case No. 14-01945
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)
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 26, 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 March 27, 2015, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Thomas M. Crean 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 worked for Defense contractors since 2002. He served in the U.S. military, retiring in 2000. He has held a clearance since 1980.

Applicant’s SOR alleges three delinquent credit card debts totaling about \$46,500. He provided no explanation for how he acquired these debts. His response to the SOR includes letters from an attorney to the creditors and the credit reporting agencies disputing the amounts of the debts though not their validity. He has provided no information about any other action taken to resolve his financial problems. The record includes a letter from the attorney stating that no collection action can be taken so long as the debts are in dispute. The letter also states that Applicant is deliberately choosing to neglect his debts because of the disputed amounts.

The Judge’s Analysis

The Judge concluded that Applicant’s financial delinquencies raised concerns under Guideline F. He also concluded that none of the mitigating conditions could be favorably applied. He stated that Applicant has not demonstrated a meaningful track record of debt resolution, merely having disputed the amounts of the debts. The Judge also stated that Applicant failed to provide evidence substantiating the reason for the disputes. He stated that Applicant presented no evidence of having taken any action on his debts since 2011, the date of the letters from the attorney. The Judge concluded that “Applicant’s lack of documented action is significant and disqualifying.” Decision at 5.

In the whole-person analysis, the Judge cited to evidence of Applicant’s military service and his having held a clearance for many years without incident or concern. He reiterated, however, that Applicant had provided no credible evidence to show a reasonable and responsible approach to his financial problems. He concluded that the record left him with questions and doubts about Applicant’s judgment, reliability, and trustworthiness.

Discussion

Applicant’s brief contains assertions from outside the record, which we cannot consider. Directive ¶ E3.1.29. He cites to information contained in his clearance application and personal

interview, arguing that he has established his case for mitigation by presenting all of the evidence that he has available. Applicant's argument is not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 10-06824 at 2 (App. Bd. Apr. 9, 2012). In essence, Applicant argues for an alternative interpretation of the record. However, this argument is not sufficient to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *Id.* The Judge's conclusion that Applicant's presentation consists more of promises for future payment than of a demonstrated track record of debt resolution is sustainable based on the record that was before him. *See, e.g.*, ISCR Case No. 11-04176 at 2-3 (App. Bd. Dec. 17, 2012).

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