

KEYWORD: Guideline F

DIGEST: Applicant cites to her efforts at debt repayment. Her argument is not enough to rebut the presumption that the Judge considered all of the evidence in the record, nor is it enough to show that the Judge mis-weighed the evidence.

CASENO: 14-02668.a1

DATE: 05/27/2016

DATE: May 27, 2016

_____)	
In Re:)	
)	
-----)	ADP Case No. 14-02668
)	
)	
Applicant for Public Trust Position)	
_____)	

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 trustworthiness designation. On October 14, 2014, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—trustworthiness 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 9, 2016, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Martin H. Mogul denied Applicant’s request for a trustworthiness designation. 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 and whether the decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge’s Findings of Fact

Applicant was discharged in Chapter 13 bankruptcy in 2010. Her SOR lists overdue debts totaling about \$32,000, for various accounts that have been charged off, placed in collection status, etc. In her response to the SOR, Applicant stated that, once her divorce is finalized, she will be responsible for only one-half of many of the debts. In a second SOR response Applicant stated that she is separated from her husband and is starting to make payment arrangements with her creditors. She did not provide more detailed information about these plans. Applicant has a total monthly remainder of \$103 after payment of her bills.

The Judge’s Analysis

The Judge stated that Applicant had provided no independent evidence to show that she was resolving, or had reduced, her delinquent debts. He stated that he could not conclude that Applicant had acted responsibly regarding her financial problems.

Discussion

Applicant cites to her efforts at debt repayment. Her argument is not enough to rebut the presumption that the Judge considered all of the evidence in the record, nor is it enough to show that the Judge mis-weighed the evidence. *See, e.g.*, ADP Case No. 14-03541 at 3 (App. Bd. Aug. 3, 2015). Applicant’s brief contains new evidence, which we cannot consider. *See, e.g.*, ADP Case No. 14-03541, *supra*.

The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. The standard applicable to trustworthiness cases is that set forth in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988) regarding security clearances: such a determination “may be granted only when ‘clearly consistent with the interests of the national security.’” *See, e.g.*, ADP Case No. 12-04343 at 3 (App. Bd. May 21, 2013). *See also Kaplan v. Conyers*, 733 F.3d 1148 (Fed. Cir. 2013), *cert. denied*.

Order

The Decision is **AFFIRMED**.

Signed: Michael Ra'anan
Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

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

Signed: Catherine M. Engstrom
Catherine M. Engstrom
Administrative Judge
Member, Appeal Board