

KEYWORD: Guideline F

DIGEST: Applicant cites to evidence that was not part of the record. Adverse decision affirmed.

CASENO: 08-03198.a1

DATE: 03/05/2010

DATE: March 5, 2010

_____)	
In Re:)	
)	
-----)	ISCR Case No. 08-03198
)	
Applicant for Security Clearance)	
_____)	

APPEAL BOARD SUMMARY DISPOSITION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro Se

The Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On June 16, 2009, DOHA 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 hearing. On January 12, 2010, after the hearing, Administrative Judge Shari Dam denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant's appeal brief contains no substantive matters and makes no assertion of harmful error on the part of the Judge. The Appeal Board's authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. *See* Directive ¶ E3.1.32. Additionally, Applicant's appeal submission makes reference to matters that were not part of the record below. The Board cannot consider new evidence on appeal. *See* Directive ¶ E3.1.29. Therefore, the decision of the Judge denying Applicant a security clearance is AFFIRMED.

Signed: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board

Concurring opinion of Administrative Judge Michael Y. Ra'anan

The Judge did not err. However, the posture of the case is somewhat unusual, and I am not sanguine about affirming the result without comment. The SOR alleged only two delinquent debts in excess of \$1,000: one for about \$4,000 and one for about \$14,000. Applicant was *pro se* and clearly not familiar with legal procedures. She reported at the hearing that the alleged \$14,000 was not a debt and was just an error. She did not bring any corroboration to the hearing. The Judge left the record open but Applicant did not supply the corroboration by the close of the record. Accordingly, the Judge, in her Whole Person Analysis focused on the absence of corroboration for Applicant's claims on her largest debt "representing 65% of her listed debts" (Decision page 8) and reached an adverse result.

On appeal Applicant reports that she sought corroboration before close of the record but that it did not arrive until after the close of the record (although before the Judge issued her decision). If Applicant's corroboration would really support her claim, then I am not sure that her actual delinquent debts would have raised security concerns, and I suspect the Judge might have analyzed the case differently.

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