

KEYWORD: Guideline F

DIGEST: The Judge noted that the record is sparse and concluded that Applicant had not met her burden of persuasion. On appeal Applicant challenges two findings of fact which if incorrect are harmless errors. Applicant submits new evidence which the Board cannot consider. Adverse decision affirmed.

CASENO: 0713685.a1

DATE: 10/10/2008

DATE: October 10, 2008

In Re:)
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 -----) ISCR Case No. 07-13685
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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 Defense Office of Hearings and Appeals (DOHA) declined to grant Applicant a security clearance. On April 3, 2008, DOHA 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 July 24, 2008, after considering the record, Administrative Judge LeRoy F. Foreman denied Applicant’s request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether certain of the Judge’s findings of fact are supported by substantial record evidence and whether the Judge’s adverse security clearance decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a 41-year-old employee of a defense contractor. She has never held a security clearance. Applicant has a number of delinquent bills, including those for medical treatment resulting from an automobile accident. She has filed for Chapter 13 bankruptcy protection. The total value of debts alleged in the SOR amounts to \$16,835, although four of the debts are duplicates of others. In evaluating Applicant’s case, the Judge noted that the “record in this case is very sparse. It reveals little about Applicant’s background and reputation, the circumstances leading to her financial difficulties, and her responses to those difficulties.” Decision at 7. The Judge concluded that Applicant had not met her burden of persuasion. *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). (“The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’”)

We have examined the Judge’s decision in light of the record as a whole. The Judge’s material findings of security concern are supported by substantial record evidence. See Directive ¶ E3.1.32.1. (Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.”) Applicant contends that the Judge erred in stating that she is a switchboard operator instead of a security control monitor, and that the 16-year-old son referenced in the Judge’s decision is not her son but her stepson. To the extent that this information is incorrect, the errors are harmless. In support of her appeal, Applicant submitted new evidence not contained in the record, which the Board cannot consider. See Directive ¶ E3.1.29. (“No new evidence shall be received or considered by the Appeal Board.”) In light of the record as a whole, the Judge has drawn a rational connection between the facts found and his ultimate adverse security clearance decision. See ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006). See also *Motor Vehicle Mfrs. Ass’n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The Judge’s decision is sustainable on this record.

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael D. Hipple
Michael D. Hipple
Administrative Judge
Member, 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