

KEYWORD: Guideline F; Guideline J; Guideline E

DIGEST: The judge found that Applicant still has some \$26,000 in delinquent debt. The Judge concluded that Applicant had not demonstrated sufficient mitigation to support a favorable security clearance determination. Adverse decision affirmed

CASENO: 07-17806.a1

DATE:11/21/2008

DATE: November 21, 2008

)	
In Re:)	
-----)	ISCR Case No. 07-17806
)	
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 February 14, 2008 DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations),

Guideline J (Criminal Conduct), and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On September 16, 2008, after the hearing, Administrative Judge Matthew E. Malone 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 issue on appeal: whether the Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law.¹ Finding no error, we affirm.

The Judge found that Applicant had numerous delinquent debts. He found that some of the debts alleged in the SOR were apparently duplicates of others. Additionally, he decided in favor of Applicant on debts that Applicant demonstrated he had actually paid off. However, the Judge reasonably concluded that, even discounting these matters, Applicant still had at least \$26,471 in delinquent debt. After examining the possible application of pertinent mitigating conditions, the Judge concluded that Applicant had not demonstrated sufficient mitigation of his financial situation to support a favorable security clearance adjudication. The Judge's decision, viewed in light of the record as a whole, draws a rational connection between the facts found and its ultimate denial of a security clearance for Applicant. *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 that "it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance" is sustainable on this record. Decision at 12. *See Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

Order

The Judge's adverse security clearance decision is AFFIRMED.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan
Administrative Judge
Chairman, Appeal Board

Signed: William S. Fields

William S. Fields
Administrative Judge
Member, Appeal Board

¹The Judge's favorable decision under SOR subparagraphs 1(a), (c-e), (g-h), (jj) and under Guidelines J and E is not at issue in this appeal.

Signed; James E. Moody _____

James E. Moody
Administrative Judge
Member, Appeal Board