

KEYWORD: Guideline F; Guideline E

DIGEST: The Judge found that Applicant's debts were caused in large measure by her husband's unemployment. However, the Judge also concluded that Applicant had not demonstrated that her financial problems were being resolved or were under control. The Judge's findings are sustainable. Adverse decision affirmed.

CASENO: 08-01538.a1

DATE: 07/21/2009

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| In Re: |) | |
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| ----- |) | ISCR Case No. 08-01538 |
| |) | |
| 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 November 19, 2008, 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 May 21, 2009, after the hearing, Administrative Judge Marc E. Curry denied Applicant’s request for a security clearance. Applicant appealed 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 were supported by substantial record evidence; whether the Judge erred in his application of the pertinent mitigating conditions; and whether the Judge’s whole-person analysis was erroneous.¹ Finding no error, we affirm.

The Judge found that Applicant, an employee of a defense contractor, had acquired nearly \$15,000 in delinquent debt since 2004. The debts were for such things as telephone services, groceries, and a breached rental agreement. The Judge found that the debts were caused in large measure by Applicant’s husband’s unemployment. However, he also concluded that Applicant had not demonstrated that her financial problems were being resolved or were under control.

The Board concludes that 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.”) After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for the decision, “including a ‘rational connection between the facts found and the choice made.’” *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 7. *See also 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.’”)

¹The Judge’s favorable findings under Guideline F, subparagraphs 1(a), (e), (g-k), and under Guideline E are not at issue in this appeal.

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: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: James E. Moody

James E. Moody
Administrative Judge
Member, Appeal Board