KEYWORD: Guideline F

DIGEST: A party's disagreement with the Judge's weighing of the evidence or an ability to argue for an a different interpretation of the evidence is not sufficient to demonstrate that the Judge's decision is erroneous. Adverse decision affirmed.

CASENO: 08-07453.a1

DATE: 04/01/2009

DATE: April 1, 2009

In Re:)
)
        -----   )   ISCR Case No. 08-07453
)
)
Applicant for Security Clearance   )
)

APPEAL BOARD DECISION

<u>APPEARANCES</u>

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 September 4, 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 hearing. On February 2, 2009, after the hearing, Administrative Judge Darlene D. Lokey Anderson denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge's conclusion that Applicant had failed to meet her burden of persuasion as to mitigation was erroneous. Finding no error, we affirm.

The Judge made the following pertinent findings of fact: Applicant is a 43-year-old Office Administrator for a defense contractor. She holds a B.A. degree in business administration. Applicant has delinquent debt of approximately $21,000. She has experienced job layoffs in the past and, at the close of the record, was going through a divorce. In her current job, Applicant brings home around $620 per week. She advised the Judge that, once the divorce court awards her child support from her spouse, she will be able to devote more of her take-home pay to addressing her debts. After the hearing, but before the close of the record, Applicant submitted an exhibit demonstrating that she had hired a credit counseling service to assist her with her debts. Applicant's references describe her as hardworking, trustworthy, and of good character.

Applicant appears to challenge the weight which the Judge assigned her mitigating evidence concerning her divorce, unemployment, and efforts to obtain credit counseling. However, a party's disagreement with the Judge's weighing of the evidence, or an ability to argue for a different interpretation of the evidence, is not sufficient to demonstrate the Judge weighed the evidence or reached conclusions ins a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007). For example, Applicant's having sought credit counseling following the hearing is entitled to less weight than would a demonstrated history of debt repayment. *See, e.g.,* ISCR Case No. 07-13041 (App. Bd. Sep. 19, 2008).

After reviewing the record, the Board concludes that the Judge examined the relevant data and articulated a satisfactory explanation for her 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 or continue a security clearance for Applicant" 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'").

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