

KEYWORD: Guideline F

DIGEST: Applicant failed to demonstrate a track record of responsible actions in regard to his delinquent debts. There is a rebuttable presumption that the Judge has considered all the evidence. Adverse decision affirmed.

CASENO: 08-08901.a1

DATE: 01/07/2010

DATE: January 7, 2010

In Re:)	
)	
-----)	ISCR Case No. 08-08901
)	
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 3, 2009, 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 October 9, 2009, after the hearing, Administrative Judge Wilford H. Ross 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 the Judge’s application of the pertinent mitigating conditions was erroneous and whether the Judge’s adverse security clearance decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge found that Applicant is an employee of a defense contractor. He is married. He has significant delinquent debts for such things as consumer purchases, medical expenses, telephone bills, credit cards, etc. Applicant enjoys a reputation for conscientiousness and reliability. The Judge noted that Applicant's financial problems were affected his wife's illness. However, the Judge concluded that Applicant had failed to meet his burden of persuasion as to mitigation. Specifically, the Judge stated that Applicant had not demonstrated a track record of responsible actions in regard to his many debts.

Applicant argues that the Judge failed to consider his family's circumstances and his security history. There is a rebuttable presumption that a Judge has considered all the record evidence. *See, e.g.,* ISCR Case No. 07-00196 at 3 (App. Bd. Feb. 20, 2009); ISCR Case No. 07-00553 at 2 (App. Bd. May 23, 2008). Applicant's arguments are insufficient to rebut that presumption. Furthermore, the Judge discussed Applicant's family's circumstances. Applicant has not demonstrated that the Judge failed to consider the pertinent record evidence.

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 9. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *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
Chairperson, 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