

KEYWORD: Guideline F

DIGEST: A Judge is presumed to have considered all of the record evidence. The Judge provided a reasonable explanation for her conclusion that Applicant had not demonstrated a track record of debt repayment. Adverse decision affirmed.

CASENO: 08-09704.a1

DATE: 03/31/2010

DATE: March 31, 2010

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In Re:)	
)	
-----)	ISCR Case No. 08-09704
)	
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 May 29, 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 January 13, 2010, after the hearing, Administrative Judge Mary E. Henry 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 ignored record evidence

favorable to Applicant 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 a technical order librarian for a Defense contractor. She retired from the Air Force after twenty years of service, and she has worked as a contractor ever since. She has held a security clearance since the beginning of her Air Force career, without incident or concern. Applicant's husband is also retired from the Air Force. He worked in the airline industry, suffering a diminution in salary following the September 11, 2001, attacks. He currently performs maintenance work.

At the time they married, Applicant's husband had significant debts. The couple have resolved his debts, though in doing so they neglected Applicant's. In addition, Applicant and her husband have provided financial assistance to their daughter, who was raising children.

Applicant herself has significant delinquent debts, for such things as a car repossession, medical bills, and commercial credit accounts. Although she has paid off some of her debts, the Judge concluded that the remaining ones posed security concerns which Applicant had failed to mitigate.

Applicant contends that the Judge ignored evidence which, she believes, demonstrates that she had resolved her medical bills. She believes that the Judge substituted an unfavorable opinion for record evidence. We have examined the Judge's detailed discussion of Applicant's medical debts. We find no basis to conclude that her findings on these matters were not based upon substantial record evidence. Furthermore, the conclusions which she drew from these findings were reasonable, principally that the record did not explain the circumstances underlying many of these debts. The Judge concluded that Applicant had not met her burden of persuasion as to mitigation, which was a reasonable interpretation of the record.

A Judge is presumed to have considered all the evidence in the record. *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). In this case, the Judge discussed evidence which tended to show that Applicant's financial problems were, to a certain extent, a result of circumstances outside her control, and that several of her debts had been satisfied, either by having been paid off or having been forgiven by the creditors. However, she also provided a reasonable explanation for her conclusion that Applicant had failed to demonstrate a track record of debt repayment or otherwise mitigate the remaining debts.

After reviewing the record, we conclude 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 adverse decision is sustainable on this record. "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: Jean E. Smallin

Jean E. Smallin
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