

KEYWORD: Guideline F

DIGEST: The Judge addressed Applicant's favorable evidence but reasonably concluded it was outweighed the extent of the delinquent debts and the recency of the efforts to resolve them. Adverse decision affirmed.

CASENO: 08-10011.a1

DATE: 11/06/2009

DATE: November 6, 2009

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In Re:)	
)	
-----)	ISCR Case No. 08-10011
)	
)	
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 January 27, 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 August 24, 2009, after the hearing, Administrative Judge Erin C. Hogan 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 failed to consider record evidence favorable to Applicant; whether the Judge erred in her application of the pertinent mitigating conditions; and whether the Judge’s decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge found that Applicant is a support specialist working for a federal contractor. He has previously served with the U.S. Army, during which time he held a security clearance.

Applicant has significant delinquent debts for medical expenses, credit cards, consumer purchases, etc. He owes child support as the result of a previous marriage and has experienced health problems at a time when he did not have health insurance. He also owes back taxes to the IRS from tax year 2003. He has consulted with a financial counselor but has not entered into a debt repayment plan. In the Analysis portion of the decision, the Judge noted the circumstances outside Applicant’s control that affected his financial condition. She also noted his good work record and his record of achievement in the Army. However, she concluded that Applicant had not begun to address his delinquent debts until relatively recently and that, as a consequence, he failed to meet his burden of persuasion as to mitigation.

Applicant contends that the Judge did not consider favorable evidence, such as the extent to which he is attempting to resolve his financial problems and his evidence of his good work ethic and reliability. However, 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 the case under consideration here, the Judge addressed Applicant’s favorable evidence, but she reasonably concluded that it was outweighed by other factors, such as the extent of the delinquent debts and the recency of Applicant’s efforts to resolve them.

In light of the *Egan* standard, the Judge’s decision that “it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance” is sustainable. Decision at 11. *See 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 D. Hipple
Michael D. Hipple
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