

KEYWORD: Guideline F

DIGEST: Although Applicant’s financial problems were affected by unemployment and a marital breakup, she demonstrated no track record of financial responsibility. A Judge is presumed to have considered all the record evidence. Adverse decision affirmed.

CASENO: 08-10221.a1

DATE: 01/21/2010

DATE: January 21, 2010

In Re:)	
)	
-----)	ISCR Case No. 08-10221
)	
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 26, 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 November 13, 2009, after the hearing, Administrative Judge Joan Caton Anthony 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 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 had several delinquent debts. She acknowledged that Applicant's financial problems originated in a period of unemployment and from a marital breakup. However, she concluded that Applicant has not demonstrated a track record of financial responsibility. "Applicant has experienced financial difficulties since at least 2005, but she has addressed them only recently. Applicant's financial problems began when she was a mature adult, and she failed to address her delinquent debts for a significant period, a decision that raises concerns about her judgment and reliability." Decision at 7.

Applicant contends on appeal that the Judge either ignored or mis-weighed significant record evidence, including the circumstances under which she first experienced her financial problems, the extent to which she has paid off debts, and her development of a debt management plan. 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 any event, the Judge's decision demonstrates that she considered the evidence favorable to Applicant, but that she plausibly explained why she concluded that Applicant had, nevertheless, failed to mitigate the security concerns in her case.

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 national security to grant Applicant eligibility for a security clearance" is sustainable on this record. Decision at 8. "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: Jeffrey D. Billett
Jeffrey D. Billett
Administrative Judge
Member, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board