

of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On May 10, 2010, after the hearing, Administrative Judge Erin C. Hogan denied Applicant's request for a security clearance. Applicant timely appealed pursuant to the Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issue on appeal: whether the Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law. For the following reasons, the Board affirms the Judge's unfavorable decision.

The Judge found that Applicant's security clearance background investigation revealed that he has 27 delinquent accounts which total approximately \$86,707. She also found that Applicant has eighteen delinquent consumer debts with an approximate total of \$14,617. These debts are listed in Applicant's credit reports. Applicant also owes delinquent income taxes and he has substantial child support arrearages. The Judge concluded that while circumstances beyond his control contributed to his financial problems, he has not acted responsibly with regard to resolving his delinquent accounts. While he has taken action to address some of his debts, Applicant's unresolved debts raise questions about his reliability, trustworthiness, and good judgment.

Applicant's principal assignment of error on appeal is his contention that the Judge's statement regarding his total indebtedness is incorrect. He asserts that the amount of his indebtedness that was transcribed from an old credit report is incorrect and this error caused the Judge to make the decision that he is not trustworthy. An evaluation of Applicant's claim is hampered by the fact that Applicant, despite making a general reference to an \$89,000 figure, does not specify a dollar amount from a particular credit report that he believes to be in error (there are three credit reports in the record) and he does not indicate what he believes his total amount of indebtedness to be.

The Judge referenced an \$86,000 figure in her decision and indicated that it was obtained from Applicant's background investigation. She went on to make independent findings of fact concerning individual components of Applicant's debt profile, including child support, rental and related real estate debts, automobile loans, consumer debts, and taxes. A review of the record evidence leads the Board to conclude that the delinquency amounts stated by the Judge in her decision are supported by the record evidence. Applicant has failed to establish error.

Applicant asserts that he is accomplishing a reduction in his debts. As the trier of fact, the Judge has to weigh the evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence, or *vice versa*. See, e.g., ISCR Case No. 06-10320 at 2 (App. Bd. Nov. 7, 2007). 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 in 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).

In this case, the Judge weighed the mitigating evidence offered by Applicant against the seriousness of the disqualifying conduct and considered the possible application of relevant

conditions and factors. She discussed the applicability of the mitigating factors listed under Guidelines F and indicated in some detail why the mitigating conditions either did not apply or applied with insufficient strength to ultimately mitigate the security concerns raised in the case. The Board does not review a case *de novo*. The favorable evidence cited by Applicant is not sufficient to demonstrate the Judge's decision is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-11172 at 3 (App. Bd. Sep. 4, 2007). 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 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). Therefore, the Judge's ultimate unfavorable security clearance decision is sustainable.

Order

The decision of the Judge denying Applicant a security clearance 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: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board