

KEYWORD: Guideline F; Guideline E

DIGEST: Viewed in light of the record as a whole and the Egan standard, the Judge's adverse decision is sustainable. Adverse decision affirmed.

CASENO: 09-01595.a1

DATE: 11/06/2009

DATE: November 6, 2009

In Re:)	
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Applicant for Security Clearance)	ISCR Case No. 09-01595

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 March 19, 2009, DOHA issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline F (Financial Considerations) and Guideline E (Personal Conduct) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as

amended) (Directive). Applicant requested a decision on the written record. On August 28, 2009, after considering the record, Administrative Judge Paul J. Mason denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: 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 served in the U.S. military from 1983 until 2005 and had held a security clearance since 1984. She has five delinquent debts, totaling approximately \$12,800. They became delinquent between 2002 and 2005. Additionally, Applicant answered "no" to the question on the security clearance application (SCA) inquiring whether she had debts more than 180 days delinquent. This answer was not correct. The Judge concluded that these facts establish disqualifying conditions under the Directive.

In analyzing Applicant's case for mitigation, he concluded that her military experience and history of holding a security clearance militated against an innocent mistake in providing the false answer to the SCA. Regarding the debts, the Judge stated that Applicant's having failed to respond to the file of relevant material resulted in numerous unanswered questions about her finances—questions about the reasons for her delinquent debts, her plans to pay them off, etc.¹ As a consequence, the Judge concluded that Applicant had not met her burden of persuasion as to mitigation. Viewed in light of the record as a whole and of the *Egan* standard, the Judge's adverse decision is sustainable. *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: Jean E. Smallin
Jean E. Smallin
Administrative Judge
Member, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge

¹The Board cannot consider the information Applicant provided in her appeal brief concerning the origin of her debts and her plans to pay them off in the future, since it constitutes new evidence. *See* Directive ¶ E3.1.29.

Member, Appeal Board

Signed: James E. Moody _____

James E. Moody

Administrative Judge

Member, Appeal Board