

KEYWORD: Guideline F

DIGEST: The Judge found that Applicant did submit documentation of her payments or other efforts at resolving her delinquent indebtedness. Adverse decision affirmed.

CASENO: 09-04229.a1

DATE: 08/12/2010

DATE: August 12, 2010

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In Re:)	
)	
-----)	ISCR Case No. 09-04229
)	
)	
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 19, 2010, 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 decision on the written record. On May 24, 2010, after considering the record, Administrative Judge LeRoy F. Foreman 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 erred in his application of the pertinent mitigating conditions and whether the Judge’s whole-person analysis was erroneous. Consistent with the following discussion, we affirm the Judge’s decision.

The Judge made the following pertinent findings of fact: Applicant is an administrative assistant for a Defense contractor. She has attended college but has not received a degree.

Applicant has numerous delinquent debts totaling about \$44,000. She attributed her financial problems to poor judgement and a lack of understanding. She enrolled in a debt management program but terminated her contract because it was too expensive. Applicant did not provide any documentary proof of settlement negotiations, payment plans, or payments made. In the Analysis portion of the decision, the Judge stated that Applicant had not established a track record of financial responsibility.

In her appeal brief, Applicant contends that she has paid off some of her debts and has submitted all the documentation in her possession regarding her debts. However, her presentation on appeal does not undermine the Judge’s adverse findings concerning all but one of the debts alleged in the SOR. Neither does it undermine his statement that Applicant submitted little by way of corroborating evidence, such as evidence of payments made on debts cited in the SOR, settlement agreements, etc.¹ Applicant takes issue with the Judge’s conclusion that insufficient time has passed to demonstrate a track record of debt repayment. However, our review of the record supports this conclusion.

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, both as to the mitigating conditions and the whole-person factors.’” *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).

¹Applicant had provided corroborating evidence of payments made on accounts not cited in the SOR. While such evidence is not without probative value, in the totality of the facts and circumstances of this case it adds little to the case in mitigation.

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: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

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