

KEYWORD: Guideline F

DIGEST: Applicant’s debts were affected by the spending habits of his ex-wife as well as periods of unemployment, but the Judge concluded that Applicant had not demonstrated responsible action in regard to his debts. The Judge’s conclusion is sustainable. Adverse decision affirmed.

CASENO: 10-00860.a1

DATE: 04/08/2011

DATE: April 8, 2011

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In Re:)	
)	
-----)	ISCR Case No. 10-00860
)	
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 4, 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 hearing. On January 18, 2011, after the hearing, Administrative Judge Martin H. Mogul denied Applicant's request for a security clearance. Applicant appealed the decision.

Applicant raised the following issues on appeal: whether the Judge failed to consider all of the record evidence or mis-weighed the record evidence and whether the Judge's adverse security clearance decision was arbitrary, capricious, or contrary to law. Consistent with the following discussion, we affirm the decision of the Judge.

The Judge found that Applicant was previously married and is currently going through a divorce from his second wife. He has served in the U.S. Army and also in the Air National Guard. He is seeking a clearance in connection with possible future employment in the Defense sector.

Applicant had numerous delinquent debts, which he had neither paid nor demonstrated an effort at repayment.¹ Applicant's debts were affected by the spending habits of his ex-wife and his current one, as well as periods of unemployment. Applicant has received numerous potential job offers. He received a number of medals and citations from his military service and received favorable efficiency reports.

In the Analysis portion of the Decision, the Judge noted Applicant's unemployment and the spending that Applicant attributed to his wives. However, the Judge concluded that Applicant had not demonstrated responsible action in regard to his debts, had not provided evidence to corroborate his claims to have disputed some of the debts, and that he made no effort to resolve his debts during periods in which he was employed.² Decision at 7-8.

Applicant points to record evidence of his military record as demonstrating his worthiness for a clearance. However, the Judge made explicit findings on this matter. Additionally, he found in Applicant's favor for several of the debts alleged in the SOR. However, given the extent of Applicant's delinquent debt and the paucity of record evidence demonstrating an effort at repayment, the Judge's ultimate conclusion that Applicant had failed to meet his burden of persuasion as to mitigation is sustainable. Applicant has not demonstrated that the Judge failed to consider all of the record evidence or that he mis-weighed the evidence. *See* ISCR Case No. 09-03621 at 2 (App. Bd. Dec. 3, 2010).

The record supports a conclusion 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.*

¹The SOR alleged debts for such things as medical expenses, utility services, cable services, a repossessed vehicle, etc.

²We note Government Exhibit 3, Answers to Interrogatories, dated March 23, 2010. This exhibit contains a summary of Applicant's security clearance interview, conducted in April 2009. At the time of the interview, he was serving a period of active duty with the Air National Guard. Applicant stated to the interviewer that he cleared about \$3,600 a month, that he lived on post, did not have a car, and ate all his meals in the dining hall. This evidence suggests that, at the time of the interview, Applicant's day to day expenses were relatively minimal and that he had the financial capacity to address at least some of his debts. It underscores the Judge's conclusion that Applicant had not taken advantage of his periods of employment to begin paying down debt.

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).

Order

The Judge's adverse security clearance 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