

KEYWORD: Guideline F

DIGEST: The cited evidence, a payment agreement, does not demonstrate that Applicant actually made the payments. Adverse decision affirmed.

CASENO: 11-04981.a1

DATE: 02/16/2012

DATE: February 16, 2012

In Re:)
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 -----) ISCR Case No. 11-04981
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)
 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 July 26, 2011, 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 November 30, 2011, after considering the record, Administrative Judge Rita C. O’Brien 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 failed to consider, or misweighed, significant record evidence and whether the Judge’s adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge made the following pertinent findings of fact: Applicant has six delinquent debts, which total \$36,000. These debts include charged off accounts with banks, a debt to the IRS, and a debt to a state for past due taxes.

Applicant stated in her security clearance interview that she intended to pay her debts. Later, in an interrogatory response, she stated that she had settled one of them, a debt owed to a bank and listed as ¶ 1(a) in the SOR. However, she did not provide documentary corroboration of actual payment on the debt. She stated in an interrogatory response that she was working with certain creditors and that she had made payments both to the IRS and to her state. However, she did not attach documentation.

Applicant has a net monthly income of \$2,287. After expenses and debt repayments, she has a negative remainder. Applicant has attributed her financial problems to a divorce and to a period of unemployment.

In the Analysis, the Judge noted evidence that Applicant’s debts were affected by circumstances outside her control. However, she also concluded that Applicant had not provided evidence of debt resolution or of good-faith efforts to resolve her debts. In the whole-person analysis, the Judge noted that Applicant had been aware that delinquent debts are a security concern, since she completed her security clearance application in December 2010 but had produced little documentation to show that she has taken significant steps to resolve these debts. The Judge wrote that without documentary evidence to support Applicant’s statements, she could not conclude that Applicant’s claims of efforts to resolve her debts had been established.

In her appeal brief, Applicant cites to record evidence of her settlement of the debt listed at ¶ 1(a) of the SOR. We construe her argument to be that the Judge either did not consider this evidence or that she did not properly weigh it. We have examined the document, attached to her response to DOHA interrogatories (Item 7). It consists of a statement by the creditor confirming a payment agreement with Applicant. However, it does not demonstrate that Applicant actually made the payments set forth. This document supports the Judge’s finding concerning ¶ 1(a) and is consistent with the Judge’s analysis of Applicant’s claims about debt resolution. Applicant has not rebutted the presumption that the Judge considered all of the evidence, nor has she demonstrated that the Judge failed properly to weigh the evidence. *See, e.g.*, ISCR Case No. 09-07395 at 3 (App. Bd. Sep. 14, 2010). Applicant’s brief contains information from outside the record concerning the extent

of debt repayment since her interrogatory responses. We cannot consider new evidence on appeal. *See, e.g.*, ISCR Case No. 10-10087 at 2 (App. Bd. Dec. 8, 2011).

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. 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). *See also* Directive, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.”

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