

KEYWORD: Guideline F

DIGEST: The adverse impact of a security clearance decision is not relevant in evaluating clearance eligibility. Adverse decision affirmed.

CASENO: 11-10758.a1

DATE: 05/21/2013

DATE: May 21, 2013

In Re:)	
)	
-----)	ISCR Case No. 11-10758
)	
Applicant for Security Clearance)	

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

James B. Norman, Esq., Chief Department Counsel

FOR APPLICANT

Pro se

The Department of Defense (DoD) declined to grant Applicant a security clearance. On October 1, 2012, DoD 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 March 14, 2013, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Michael H. Leonard 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 considered all of the record evidence and whether the adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Findings of Fact

Applicant has five unpaid judgments and five collection or charged off accounts, totaling about \$29,489. He has a lengthy history of financial problems, which he attributes to periods of unemployment and underemployment. Both he and his wife have been laid off from jobs during the past ten years. He defaulted on a mortgage, but the lender agreed to a modification, and Applicant is now in good standing regarding this debt. He also paid off two other debts by means of garnishment. These debts were not alleged in the SOR. Concerning those debts that were alleged, Applicant has neither paid, settled, or resolved any of them. He has made payment on one of them, through garnishment. However, the debt was not paid off because Applicant left his job, and the garnishment did not follow him to his subsequent employment. His plan to address his debts is to contact creditors, beginning with the smaller debts, and pay them off as quickly as possible.

The Judge's Analysis

Concluding that Applicant's circumstances raised Guideline F concerns, the Judge was not able to extend favorable application to any of the mitigating conditions. He stated that Applicant has not established a plan to pay off his debts and that he offered no details on how he proposed to resolve them. The Judge characterized Applicant's plan for debt resolution as "speculative and unrealistic." Decision at 7. The Judge stated that garnishment is not the same as a good-faith effort to pay off debt because it is involuntary.

Discussion

Applicant cites to evidence that some of his debts had been repaid and that he is current on his mortgage. He takes issue with the Judge's treatment of his garnishment actions, insofar as these actions did result in debt satisfaction. He also cites to evidence of his good character, such as his volunteer activities in the community. A Judge is presumed to have considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 12-09329 at 3 (App. Bd. Mar. 18, 2013). The Judge addressed Applicant's having resolved some of his debts, including his mortgage. However, considering the record as a whole, the Judge's overall decision is sustainable. We note the Judge's comments that Applicant had failed to articulate a credible plan of debt resolution. These comments were consistent with the record before him. Moreover, we find no reason to conclude that the Judge weighed the evidence, including the evidence of the garnishment actions, in a manner that was

arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 11-08087 at 3 (App. Bd. Mar. 5, 2013).

Applicant notes the effect that a clearance denial may have upon his employment. However, the adverse impact of an unfavorable decision is not relevant in evaluating clearance eligibility. *See, e.g.*, ISCR Case No. 06-23613 at 4 (App. Bd. Feb. 4, 2013).

The record supports a conclusion that the Judge examined the relevant data and articulated a satisfactory explanation for the decision. 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 Decision 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: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board