

KEYWORD: Guideline F

DIGEST: Applicant's appeal brief also claims there are two errors in the hearing transcript. Specifically, she claims the transcript incorrectly reflects the acronym of the entity from which she received credit counseling and incorrectly reflects the year in which she started that counseling. Because she stated that she was responsible for the mistake pertaining to the acronym, no relief for that error is warranted on appeal. The other claimed error regarding the start-date of the counseling fails for lack of specificity because Applicant fails to indicate whether she or the court reporter was responsible for that mistake. However, even if the court reporter was responsible for that error, it is a harmless error because it likely did not affect the outcome of the case. In this regard, we note the Judge based her decision primarily on Applicant's failure to act responsibly in addressing the credit card debt. Adverse decision affirmed.

CASENO: 17-02350.al

DATE: 01/11/2019

DATE: January 11, 2019

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 July 12, 2017, 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 October 19, 2018, after the hearing, Administrative Judge Candace Le'i Garcia 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 there were errors in the hearing transcript and whether Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

The Judge's Finding of Fact and Analysis

The SOR alleged that Applicant had three delinquent debts. The Judge found in favor of Applicant on two small medical debts and against her on a delinquent credit card account of about \$23,900. Applicant attributed the credit card debt to the creditor engaging in criminal activity. Applicant did not provide documentation that corroborated her belief. Documentation from the creditor, however, reflected Applicant had over \$16,000 in cash advances and over \$3,000 in overdrafts that were subject to 21% interest and dated back a number of years. Applicant disputed the credit card debt. While the creditor and three credit reporting agencies verified the debt was accurate, it is scheduled to be removed from her credit reports in November 2018. Applicant indicated that she was waiting for the debt to fall off her credit reports. She also testified that she received financial counseling between 2006 and 2011, in 2013, and in 2016, but did not provide corroborating documentation. There is insufficient evidence to conclude she acted responsibly regarding the credit card debt.

Discussion

Applicant's appeal brief contains documents and assertions that are not contained in the record. We cannot consider new evidence on appeal. Directive ¶ E3.1.29.

Applicant's appeal brief also claims there are two errors in the hearing transcript. Specifically, she claims the transcript incorrectly reflects the acronym of the entity from which she received credit counseling and incorrectly reflects the year in which she started that counseling. Because she stated that she was responsible for the mistake pertaining to the acronym, no relief for that error is warranted on appeal. The other claimed error regarding the start-date of the counseling fails for lack of specificity because Applicant fails to indicate whether she or the court reporter was responsible for that mistake. *See, e.g.*, ISCR Case No. 00-0050 at 2-3 (App. Bd. Jul. 23, 2001). However, even if the court reporter was responsible for that error, it is a harmless error because it likely did not affect the outcome of the case. *See, e.g.*, ISCR Case No. 11-15148 at 3 (App. Bd. Jul. 25, 2013). In this regard, we note the Judge based her decision primarily on Applicant's failure to act responsibly in addressing the credit card debt.

As best we can discern, Applicant also contends that the Judge did not consider all of the record evidence and mis-weighed the evidence. For example, she asserts that the credit card debt was due to the creditor's criminal activity, that she experienced periods of unemployment while working on Federal contracts, that she exercised good judgment in handling her financial matters, and that the credit card debt has been removed from her credit reports. The Judge, however, discussed those matters in her decision. Applicant's arguments are neither sufficient to rebut the presumption that the Judge considered all of the evidence in the record nor enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 17-02488 at 3-4 (App. Bd. Aug. 30, 2018).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The 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 Ra'anan

Michael Ra'anan
Administrative Judge
Chairperson, Appeal Board

Signed: Charles C. Hale

Charles C. Hale
Administrative Judge
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy
Administrative Judge
Member, Appeal Board