

**KEYWORD:** Guideline F

DIGEST: We have examined Applicant's due process issue in light of the record as a whole. At the hearing on July 10, 2018, Applicant did not submit any exhibits. The Judge left the record open until August 3, 2018, to provide Applicant the opportunity to submit documentary evidence. In the decision, the Judge notes that Applicant did not submit any post-hearing documentation. A footnote in the decision also states, "Confirmed with Department Counsel on November 30, 2018, that no post-hearing documents were submitted." Applicant does not state when or to whom he supposedly sent his post-hearing submission. Under the facts of this case, we conclude that Applicant has not made a *prima facie* showing that he submitted the document in question. Accordingly, we conclude that Applicant was not denied his right to due process. Adverse decision affirmed.

CASENO: 17-02109.a1

DATE: 03/06/2019

DATE: March 6, 2019

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In Re: \_\_\_\_\_ )  
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----- ) ISCR Case No. 17-02109  
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 August 10, 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 December 3, 2018, after considering the record, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Gregg A. Cervi denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant’s appeal brief raises a due process issue. In his brief, he includes matters from outside the record, which we are generally precluded from considering. Directive ¶ E3.1.29. However, we will consider new evidence insofar as it bears upon threshold questions such as jurisdiction or due process. *See, e.g.*, ISCR Case No. 14-00812 at 2 (App. Bd. Jul. 8, 2015).

The Judge found against Applicant on eight delinquent debts and in favor of him on three other debts, including the sole child support allegation. In his appeal brief, Applicant stated, “I don’t believe that the Judge made any mistake in his decision to revoke my clearance. I did mail documents pertaining to my child support that I believe were not received.” His appeal brief contains one attachment: a document from a state child support enforcement division that reflected his total unpaid child support obligation was \$17,085 in May 2018, which is greater than the amount alleged in the SOR.

We have examined Applicant’s due process issue in light of the record as a whole. At the hearing on July 10, 2018, Applicant did not submit any exhibits. The Judge left the record open until August 3, 2018, to provide Applicant the opportunity to submit documentary evidence. Tr. 37-38. In the decision, the Judge notes that Applicant did not submit any post-hearing documentation. A footnote in the decision also states, “Confirmed with Department Counsel on November 30, 2018, that no post-hearing documents were submitted.” Applicant does not state when or to whom he supposedly sent his post-hearing submission. Under the facts of this case, we conclude that Applicant has not made a *prima facie* showing that he submitted the document in question. Accordingly, we conclude that Applicant was not denied his right to due process.

Additionally, as noted above, the Judge found in favor of Applicant on the sole child support allegation. Even if the Judge had received the child support document in question before issuing the decision, it would not have likely affected the outcome of the case. Consequently, if a possible Government error occurred in the handling of that document, it was a harmless error. *See, e.g.*, ISCR Case No. 11-15184 at 3 (App. Bd. Jul. 25, 2013).

Applicant has not established that the Judge committed any harmful error. 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 case is **AFFIRMED**.

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: James F. Duffy

James F. Duffy  
Administrative Judge  
Member, Appeal Board