

KEYWORD: Guideline F

DIGEST: The Judge stated that Applicant's tax problem precedes his wife's job loss and the deaths of his relatives. He found that Applicant still owes over \$116,000 and that there is insufficient evidence that his problems are behind him or that he has acted responsibly in regard to his tax lien. He found that Applicant's tax problem is recent and ongoing. Adverse decision affirmed.

CASENO: 18-00221.a1

DATE: 03/20/2019

DATE: March 20, 2019

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In Re: \_\_\_\_\_ )  
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Applicant for Security Clearance )  
\_\_\_\_\_  
ISCR Case No. 18-00221

## **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 February 8, 2018, 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 11, 2018, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Edward W. Loughran denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issue on appeal: whether the Judge’s decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge’s Findings of Fact and Analysis**

Applicant has worked for his current employer since 2005 and has worked for Defense contractors for about 30 years. He served on active duty with the U.S. military from 1983 until 1987. Applicant has held a clearance for many years. He has a history of financial problems, which include a tax lien as well as other delinquent debts. The Judge found that Applicant had mitigated all but the tax lien, which is alleged in the amount of about \$29,000. Applicant attributed his financial problems to his wife having lost her job, to deaths of close family members, and to his having allowed his finances to get “out of hand.” Decision at 2. Applicant made a payment toward his tax lien in 2018, and tax refunds were applied to this debt. These are the only payments that Applicant has made. Applicant’s wife is working again. She has filed a lawsuit and hopes to use the settlement to pay the family’s debts. Applicant has not received financial counseling, although he has hired tax professionals to help him address his problems.

The Judge stated that Applicant’s tax problem precedes his wife’s job loss and the deaths of his relatives. He found that Applicant still owes over \$116,000 and that there is insufficient evidence that his problems are behind him or that he has acted responsibly in regard to his tax lien. He found that Applicant’s tax problem is recent and ongoing. Decision at 2 and 6.

### **Discussion**

Applicant’s brief includes matters from outside the record, which we cannot consider. Directive ¶ E3.1.29. He cites to evidence of his wife’s job loss, his mother’s death, and his wife’s current employment. Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record, nor has he shown that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 17-04198 at 2 (App. Bd. Jan. 15, 2019). Applicant presented a subsequent appeal submission. The Directive permits only one appeal brief by a party. *See, e.g.,* ISCR Case No. 16-03393 at 2 (App. Bd. Aug. 6, 2018).

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision.<sup>1</sup> 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, Encl. 2, App. A ¶ 2(b): “Any doubt concerning personnel being considered for national security eligibility 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: James E. Moody

James E. Moody  
Administrative Judge  
Member, Appeal Board

Signed: Charles C. Hale

Charles C. Hale  
Administrative Judge  
Member, Appeal Board

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<sup>1</sup>The Judge made a Formal Finding against Applicant under subparagraph 1.a. and a second Formal Finding in Applicant’s favor for the same sub-paragraph. Reading the Decision as a whole, it is clear that the second finding is an administrative error. See, e.g., 07-02253 at 2-3 (App. Bd. Mar. 28, 2008).