



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 12-01325¹
)
Applicant for Security Clearance)

Appearances

For Government: Chris Morin, Esq., Department Counsel
For Applicant: *Pro se*

09/30/2015

Decision

CURRY, Marc E., Administrative Judge:

Although circumstances beyond Applicant's control contributed to her financial problems, she failed to provide evidence of any steps taken to satisfy her delinquent debts and stabilize her financial situation. Under these circumstances, it is not clearly consistent with the national interest for Applicant to possess a security clearance. Clearance is denied.

Statement of the Case

On July 28, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February

¹This case number does not match the case number cited on the Statement of Reasons (SOR). This case number is correct. The SOR case number is erroneous. (File of Relevant Material at 1, footnote 1)

20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

On August 5, 2014, Applicant answered the SOR, admitting subparagraphs 1.a and 1.d. She neither admitted nor denied subparagraphs 1.b and 1.c, She requested a decision without a hearing. On March 25, 2015, Department Counsel prepared a File of Relevant Material (FORM) consisting of documents supporting the Government's allegations. Applicant received the FORM on May 7, 2015, and was informed that she had until June 6, 2015, to submit a response. Applicant timely submitted a seven-page response, whereupon the case was assigned to me on June 12, 2015.

Findings of Fact

Applicant is a 58-year-old married woman who is separated from her husband. Five previous marriages ended in divorce. (Item 3 at 17-20) Applicant has a high school education. Since 2006, she has worked in the field of special programs security. (Item 1 at 10) Her current position is security lead. (Item 1 at 10)

Applicant is highly respected on the job. According to one of the company's senior software engineers, Applicant has "exemplary work skills regarding the adherence to security policies and the handling of classified information." (Response at 5) The company's senior program manager characterizes her as "an excellent performer" deserving of the highest recommendation. (Response at 4)

Applicant was laid off from her job in 2003 and was subsequently unemployed for the next 14 months. (Item 3 at 39) At the time of her job loss, she was married to her fifth husband, a man whom she characterized as a spendthrift "drunk" who drained her finances, stole from her, and pawned many of her personal belongings. (Item 2 at 1)

In October 2005, Applicant filed for Chapter 7 bankruptcy protection, as alleged in SOR subparagraph 1.d. (Item 2 at 1) In February 2006, the bankruptcy court discharged approximately \$74,000 of debt. (Item 3 at 34)

By the time of the bankruptcy discharge, Applicant had divorced her husband and had obtained another job. (Item 3 at 12, 20) She only earned about half the annual salary that she did at her previous job. (Item 2 at 1) To help her make ends meet, she found a roommate.² (Item 2 at 1) The roommate proved to be a scofflaw who opened credit cards in her name and "pawned everything [she] didn't have locked down." (Item 2 at 1)

²Applicant is a homeowner. (Item 3 at 8)

Currently, Applicant's credit report lists three delinquent debts totalling approximately \$15,500. (Item 5) These debts are alleged in SOR subparagraphs 1.a through 1.c. Subparagraph 1.a is a delinquent auto loan totalling \$11,987. Applicant purchased the car in 2007. (Item 5 at 10) Given the problems she was experiencing with her roommate and the costs of an excessively long commute, Applicant became unable to make the car payments. (Item 2 at 1, 3) She then sought a voluntary repossession. It is unknown from the record whether a repossession subsequently occurred. As of the date of the SOR, the creditor had charged off the debt. (Item 2 at 1)

Subparagraphs 1.b and 1.c are credit card accounts totaling approximately \$3,600. Applicant contends that these accounts were opened by her ex-roommate. Further, she contends that she contacted the credit reporting agency to have subparagraph 1.b removed from her credit report, and that she paid subparagraph 1.c. She provided no documentary evidence in support of these contentions.

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by department counsel. . . ." The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

Analysis

Guideline F, Financial Considerations

Under this guideline, "failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified information."

(AG ¶ 18) Applicant's history of financial delinquencies triggers the application of AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations.

The following mitigating conditions are potentially applicable.

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant's lengthy unemployment, together with the issues regarding her ex-husband and her roommate constitute circumstances beyond her control and trigger the first prong of AG ¶ 20(b). However, Applicant provided no evidence that she has made any payments towards the delinquent car note. Similarly, she disputes the bills that her roommate allegedly incurred in her name, but did not provide any documentation substantiating the basis of this dispute. Nor did she provide any evidence of what she has done to solve her financial problems. Under these circumstances, none of the other mitigating conditions apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation

for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Circumstances beyond Applicant's control contributed to her financial problems. However, this does not end the security clearance analysis, particularly given the recurrent nature of her financial problems. She must demonstrate that she has acted responsibly by taking such steps as organizing her finances, developing a budget, negotiating payment plans, and formally disputing the debts related to identity theft. Applicant identified the cause of her financial problems, but did not provide evidence of any reasonable steps taken to mitigate her financial problems. Under these circumstances, I conclude that she did not mitigate the security concern.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.d:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MARC E. CURRY
Administrative Judge