



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXX) ISCR Case No. 17-03876
)
Applicant for Security Clearance)

Appearances

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

03/05/2019

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant's clearance.

On 31 August 2018, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 29 December 2018, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 26 February 2019.

¹Consisting of the File of Relevant Material (FORM), Items 1-6.

²DoD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) of Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017.

Findings of Fact

Applicant denies the SOR allegations, except for SOR 1.a-1.d and 1.f. She is a 43-year-old senior information systems technician employed by a U.S. defense contractor since September 2015. She has held similar jobs since December 2004, except for being unemployed from October to November 2009, November 2013 to June 2014, and from July to August 2015. She received a clearance in November 2006, but gaps in her contractor employment required the new application in December 2015 (Item 3).

The SOR alleges, and Government exhibits (Items 4-6) establish, 11 delinquent debts totaling over \$53,000. However, record evidence shows that the October 2017 balance for SOR 1.a was \$7,335 (Item 6) and the January 2016 balance for SOR 1.e was \$12,975 (Item 5). Consequently, the balance at issue is nearly \$27,000. Applicant claims, without corroboration that SOR 1.a and SOR 1.e are the same account.³

The debts comprise three automobile repossessions totaling nearly \$24,000 (SOR 1.a-1.b and 1.e), four delinquent medical accounts totaling \$1,000 (SOR 1.c and 1.i-1.k), two delinquent cable accounts (SOR 1.g-1.h) and two consumer credit accounts totaling \$500 (SOR 1.d and 1.f). Applicant listed none of these debts on her December 2015 clearance application (Item 4), but was confronted with them during interviews with a Government investigator on 6 June and 25 July 2017 (Item 4). She claimed to have been unaware of the SOR debts until she was confronted with them. However, all the SOR debts were in various stages of delinquency before December 2015. Nevertheless, she stated her intent to address the listed debts.

Applicant documented no efforts to address her debts, either after her interview or after she received the SOR. She attributed her financial problems to her unemployment periods and her husband's retirement. However, she provided no evidence to show how these events changed her financial posture. Moreover, her most recent unemployment period was barely more than a month long. She provided no budget or financial statement. She has not documented any financial or credit counseling. She provided no work or character references, or any evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(d). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to

³However, although both accounts are for automobile repossessions, they have different account numbers, different balances due, and different ownership.

classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guidelines are Guideline F (Financial Considerations) and Guideline E (Personal Conduct).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.⁴

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties for which she did not provide any documentation of efforts to resolve her debts.⁵

Applicant meets none of the mitigating conditions for financial considerations. She has not clearly documented any efforts to resolve them.⁶ Applicant did not document that her financial problems were due to circumstances beyond her control, and she documented no efforts to resolve them, either after her subject interview or after she received the SOR or FORM.⁷ Applicant has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.⁸ Her lack of effort does not constitute a good-faith effort to address her debts.⁹ In addition, Applicant has not

⁴See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁵19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (c) a history of not meeting financial obligations;

⁶¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁷¶20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

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

⁹¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

demonstrated a track record of living within her means. Furthermore, Applicant provided no “whole-person” evidence to mitigate the security concerns raised by her inaction on the debts. Accordingly, I conclude Guideline F against Applicant.

In similar fashion, the Government established a case for disqualification under Guideline E, and Applicant failed to mitigate the security concerns. At a minimum, Applicant knew that she had generalized financial problems, yet chose to not give notice of that fact to the Government.¹⁰ I find Applicant’s conduct constitutes a deliberate omission or evasiveness inconsistent with the candor required of applicants. Accordingly, I resolve Guideline E against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-k:	Against Applicant
Paragraph 2. Guideline E:	AGAINST APPLICANT
Subparagraph a:	Against Applicant

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge

¹⁰ ¶ 16 (a) deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;