



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



In the matter of: )  
)  
) ISCR Case No. 18-01180  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Carroll Connelley, Esq., Department Counsel  
For Applicant: *Pro se*  
01/29/2019

**Decision**

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant failed to mitigate security concerns related to his unresolved delinquent debts. Clearance is denied.

**Statement of the Case**

On April 30, 2018, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline.<sup>1</sup> DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

Applicant answered the SOR and requested a decision without a hearing.<sup>2</sup> The Government submitted its written case on June 4, 2018. A complete copy of the file of

<sup>1</sup> The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on June 8, 2017.

<sup>2</sup> GE 2.

relevant material (FORM) and the Directive were provided to Applicant. He received the FORM on June 7, 2018, and did not respond. The case was initially assigned to me in July 2018. However, the FORM contained a material clerical error that required correction. The Government served Applicant with an amended FORM on October 1, 2018. Applicant timely submitted a response. The attachments to the amended FORM are admitted to the record as Government's Exhibits (GE) 1 through 4, and Applicant's response to the amended FORM is admitted as Applicant's Exhibit (AE) A, without objection.

### **Findings of Fact**

Applicant, 64, has worked for his current employer, a federal contractor, since August 2015. He previously held a security clearance during his military service from 1975 to 1980. He completed his most recent security clearance application in August 2017. He affirmatively answered the question about delinquencies regarding routine accounts, but did not provide any details about specific accounts. The ensuing investigation revealed that he is indebted to five creditors for approximately \$13,332. The debts are alleged in the SOR and he admits the allegations.<sup>3</sup>

Applicant claims that his financial problems began when his 17-year marriage dissolved in 2000. He claims that he and his ex-wife accumulated debt during the marriage and that she did not pay her share of the debt. Applicant continued to pay the joint debts for an unspecified amount of time, but stopped paying at an unspecified date. He claims that his financial situation worsened in 2011, when he left the job he held for 10 years to become the full-time caregiver for his ailing mother until her death. During his four years out of the workforce, Applicant claims that he depleted his savings. He also claims that he had a hard time re-entering the work, which he attributes to his age. He accepted his current position, but at a lower rate of pay than his previous employment.<sup>4</sup>

The alleged debts remain unresolved. The record does not contain information about Applicant's current finances.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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.

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<sup>3</sup> GE 3 – 4.

<sup>4</sup> GE 2-4; AE A

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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence.

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 the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Financial Considerations**

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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.”<sup>5</sup>

The SOR alleges that Applicant owes over \$13,000 in unresolved delinquent debts. Applicant’s admissions and the credit reports in the record support the Government’s *prima facie* case that Applicant has a history of not meeting his financial obligations and an inability to repay his creditors when he was unemployed between 2011 and 2015.<sup>6</sup>

Applicant failed to mitigate the financial concerns raised by his delinquent accounts. While Applicant’s financial problems may have been caused by events beyond his control: his divorce in the early 2000s; his four years’ of unemployment as he cared for his ailing mother; and, his difficulty re-entering the workforce, he has not provided sufficient information to show that he has acted responsibly in light of his circumstances. Because there is no current financial information in the record, it is unclear if the debts remain unpaid because Applicant has an inability or unwillingness to resolve them. Ultimately, Applicant provided no evidence that he has made a good-faith effort to repay his creditors, that he has a legitimate basis for disputing the alleged accounts, or that his financial problems are under control.

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<sup>5</sup> AG ¶ 18.

<sup>6</sup> AG ¶ 19(a) and (c).

Based on the record, doubts remain about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Applicant failed to meet his burdens of production and persuasion to refute or mitigate the financial and personal conduct concerns raised in the SOR. Accordingly, following *Egan*<sup>7</sup> and the clearly-consistent standard, I resolve these doubts in favor of protecting national security.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraphs 1.a – 1.e:	Against Applicant

### **Conclusion**

Based on the record, 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.

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Nichole L. Noel  
Administrative Judge

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<sup>7</sup> *Navy v. Egan*, 484 U.S. 518 (1988).