



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



In the matter of: )  
 )  
----- ) ISCR Case No. 19-00815  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Benjamin Dorsey, Esquire, Department Counsel  
For Applicant: *Pro se*

09/27/2019

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

**Statement of the Case**

On April 4, 2019, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations). The action was taken 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) effective within the DOD on or after June 8, 2017. On April 25, 2019, she admitted all allegations and requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. I was assigned the case on July 9, 2019.

A notice of hearing was issued on July 18, 2019, setting the hearing for August 14, 2019. The hearing was convened as scheduled, during which time the Government offered four exhibits (Exs.), marked as Exs. 1-4. Applicant gave testimony and introduced one witness. The transcript (Tr.) was received on August 23, 2019, and the record was closed. Based on the testimony, materials, and the record as a whole, I find Applicant failed to mitigate financial considerations security concerns.

## Findings of Fact

Applicant is a 42-year-old program analyst who has worked in the same position for about 10 years. A recent pay increase raised her salary to \$67,000 a year. She is a high school graduate who has completed about two years of community college courses and been employed in some capacity since age 15. This is Applicant's first application for a security clearance.

Married in 2007, Applicant is the mother of twin preteen children and stepmother to one 19-year-old child. Her husband has had a career with a fluctuating income due to multiple jobs and, in 2010, a serious back injury which put him out of work for nearly two months. (Tr. 23) He recently changed careers in search of more stable employment. He now works in heating and air conditioning repairs, and recently saw his pay increase from an hourly entry level of \$15 to nearly \$26 (approximately \$54,000 a year). (Tr. 19)

The couple has a savings account with a zero balance and Applicant has about \$22,500 in a retirement account. The couple merges their incomes into the same checking account. They contributed \$6,000 last year toward Applicant's stepdaughter's college education; in the future, the child will be attending an on-line program and receiving less money from Applicant and Applicant's spouse.

Applicant's rent is \$1,900 a month. She has no car payments. Applicant has a credit card with a balance of about \$16,000 on which she has made timely payments, usually of about \$350 a month. Although it has been some time since her husband earned an income of \$65,000 a year, his contribution at that level once helped them retrain a monthly remainder of about a "couple hundred [dollars], after groceries, bills, and everything." (Tr. 30) At their present level of income, however, extra money is tight and no progress has been made on the delinquent debts at issue in the SOR. (Tr. 30)

Aside from Applicant's husband's erratic income history, Applicant attributes their present financial problems on their pursuit of fertility treatments after their 2007 marriage, post-birth intensive care related to the twins' premature births, on-going pediatric medical care, and related expenses. (Tr. 33-35) Those costs amounted to about \$50,000, of which her parents paid about half. They have also paid about \$20,000 toward the multiple, unplanned surgeries that Applicant's hydrocephalic stepchild has received since Applicant and her spouse wed. (Tr. 37-38)

At issue in the SOR are 19 accounts, most of which became delinquent in around 2013. They amount to approximately \$50,000. The accounts are mostly for credit cards that were used to help her "make ends meet." (Tr. 39-40) In 2013, things "got to a point of just life catching up to" Applicant . . . and she "couldn't stay above water" financially. (Tr. 41) Due to a limited income, she was unable to make any payment arrangements on these debts at that time. (Tr. 41) Initially, she contacted some of her creditors by telephone to advise them of her situation, but the most aid she could get were waivers of some fees. (Tr. 41-42) Overwhelmed by making minimum payments but never getting ahead, Applicant ultimately stopped making payments altogether. (Tr. 42-43) She did

not want to resort to bankruptcy to address her delinquent debts. (Tr. 43) She knew by 2017, when she contacted one debt relief organization, that her finances could raise concerns with her job. (Tr. 46) Adhering to the advice of, or information provided by, a credit card reconciliation company, however, her plan going forward was to let the aging delinquent accounts fall off her credit reports after seven years, let their deletions improve her credit, and use the newly resultant financial score or status to buy a home. (Tr. 43-44) Consequently, the delinquent debts at issue remain unpaid and largely unaddressed.

At work, Applicant is a highly praised employee who is known for her efforts at self-improvement, dedication, and her overall value to her superiors. She presented multiple letters of recommendation from the highest levels of her field to peers. (Exs. B-K) In particular, she is lauded for her professionalism, enthusiasm, and efficiency. She is ever-mindful of the importance of her work and her unit's goals. Indeed, her references are particularly persuasive. Her supervisor testified that Applicant has been of invaluable assistance to him and has made their unit a more positive and productive place. He considers her to be a responsible individual. He looks forward to advancing her to a senior position to better utilize her talents.

Regarding her personal life, Applicant takes full responsibility for her financial issues and failures in dealing with them earlier. She is presently looking into avenues to build her credit score. (Tr. 58) She is open to whatever paths can help her in this goal. She has contained her debt situation to those at issue in the SOR. Applicant concedes that even if granted a security clearance at this time, her finances would remain an issue for the present. (Tr. 59)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Recognizing the complexities of human behavior, these guidelines are applied 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 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 any 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, an applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours. The Government reposes a high degree of trust and confidence in those granted access to classified information. Decisions necessarily include consideration of the possible risk an applicant may deliberately or inadvertently fail to safeguard such information. Decisions shall be in terms of the national interest and do not question the loyalty of an applicant.

### **Analysis**

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that 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 or sensitive information.

Here, Applicant admitted responsibility for the delinquent debts reflected in the SOR. Those obligations amount to about \$50,000 and remain largely unaddressed. This is sufficient to invoke financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the inability to do so, and

AG ¶ 19(c): a history of not meeting financial obligations.

Four conditions could mitigate the finance-related security concerns posed here:

AG ¶ 20(a): the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c): the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit counseling service, and there are clear indications that the problem is being resolved or is under control, and

AG ¶ 20(d): the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant's mounting financial problems came to a head in 2013, in the wake of her husband's 2010 back issues adversely impacting his employment, and while the couple dealt with the chronic health problems facing their children. The husband's erratic income continued to vary until he took a steep pay cut a couple of years ago to learn a new trade. With a recent pay raise, he is just now poised to reap the benefits of that laudable stratagem. Throughout this period, Applicant steadily maintained employment and excelled at work, but the family's overall financial strain was never alleviated enough for her to address the delinquent debts at issue. Under these facts, AG ¶ 20(b) applies in part.

Applicant did initiate contact with at least some of her creditors as the crisis in 2013 erupted. She considered, then dismissed, the idea of declaring bankruptcy. She consulted at least one or two professionals with superior experience in debt reduction or consolidation. Because it is unclear whether such contact constituted financial counseling, however, AG ¶ 20(c) does not fully apply. Regardless, these facts are sufficient to raise AG ¶ 20(d) in part.

### **Whole-Person Concept**

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of her conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d). Here, I have considered those factors. I am also mindful that, under AG ¶ 2(a), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based on careful consideration of the guidelines and the whole-person concept.

Applicant is a 42-year-old program analyst who has worked in the same position for about 10 years. She has worked since the age of 15. She is a stellar and dedicated employee, lauded by many in her field, and the recipient of a recent pay raise. She has completed two years of college courses. Applicant and her husband went to great efforts and expense to realize their dream of creating the loving and supportive family they have today, and to sustain the health of their three children. Moreover, Applicant's husband changed jobs and took a deep pay cut to put him on the path toward a more lucrative professional future.

These endeavors, however, incurred more than transient expenses. Extensive medical bills continue to be incurred for the children. Applicant's husband needs time to

establish himself in his new line of work and reconsider family financial issues in light of his recent boost in income. Meanwhile, the family continues to rely mainly on Applicant's income, leading her to continue neglecting her delinquent debts. In turn, this situation raises notable security concerns.

This process does not require that one satisfy all of one's delinquent debts. It does, however, expect one to adopt or devise a workable, realistic strategy for addressing such debts, and evidence that such a strategy has been successfully implemented. In simply choosing to let past debts be removed from her credit reports due to extreme age, Applicant has abandoned her financial and legal obligations, and demonstrated poor judgment. Financial counseling, a workable household budget, and some demonstration of attentiveness to her remaining and identifiable financial obligations are some of the factors Applicant might wish to revisit in order to dispel financial considerations security concerns. For now, such security concerns remain unmitigated.

### **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.s:	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 a security clearance. Eligibility for access to classified information is denied.

---

Arthur E. Marshall, Jr.  
Administrative Judge