



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



In the matter of:)	
)	
)	ISCR Case No. 19-00902
)	
Applicant for Security Clearance)	

Appearances

For Government: Tara R. Karoian, Esq., Department Counsel
 For Applicant: *Pro se*
 11/25/2019

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 May 17, 2019, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline. This action was taken 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. 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. (Government Exhibit (GE) 2.) The Government submitted its written case on August 13, 2019. A complete copy of the file of relevant material (FORM) and the Directive were

provided to Applicant. He received the FORM on August 21, 2019. He did not provide a response. The attachments to the FORM are admitted to the record as GE 1 through 6.

Findings of Fact

Applicant, 28, has worked for a federal contracting company as a mechanic since March 2018. He completed a security clearance application, his first, in May 2018. In response to the questions about his financial history, Applicant disclosed three delinquent accounts. The ensuing investigation confirmed and the SOR alleges Applicant owes \$25,536 on three delinquent accounts and that he owes another charged-off account for an unspecified amount. Applicant admits that he owes the accounts alleged in SOR ¶¶ 1.a through 1.c and that ¶ 1.d is a duplicate of ¶ 1.b. The credit reports in the record tend to support this assertion. Accordingly, SOR ¶ 1.d is resolved in Applicant's favor. (GE 3-5.)

Applicant attributes his financial problems to three periods of unemployment between July 2009 and May 2018. These periods of unemployment were not caused by events beyond Applicant's control. He was unemployed between August 2013 and December 2014 to attend school full time. He was unemployed between August 2016 and November 2016 after deciding to take some time off. He also took two months off before starting his current position in March 2018. Due to the loss of income, Applicant could not afford to meet his financial obligations for the three vehicles he owned. In his answer to the SOR, he claims to have made payment arrangements for the vehicle debt alleged in SOR ¶ 1.b, but he did not provide any corroborating evidence. While he admits the amounts owed in paragraphs SOR ¶¶ 1.a. and 1.c, he points out that the debts are more than five years old. All of the accounts remain unresolved. (GE 4, 6.)

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.

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.” (AG ¶ 18).

The SOR alleges that Applicant owes over \$25,000 in unresolved delinquent debt. 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. Financial considerations disqualifying conditions 19(a) and (c) apply. Applicant failed to mitigate the financial concerns raised by his delinquent accounts. Applicant’s financial problems were not caused by events beyond his control. On three occasions, he decided to stop working and could not pay his creditors. He has not established a good-faith effort to repay his creditors, nor has he established that his finances are under control. Accordingly, none of the financial considerations mitigating conditions apply.

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 considerations concerns raised in the SOR.

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.c:	Against Applicant
Subparagraph 1.d:	For 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.

Nichole L. Noel
Administrative Judge