



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
) ISCR Case No. 19-01196  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Daniel F. Crowley, Esq., Department Counsel  
For Applicant: *Pro se*

September 10, 2019

**Decision**

Lokey Anderson, Darlene D., Administrative Judge:

On May 29, 2018, Applicant submitted a security clearance application (e-QIP). On May 6, 2019, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security 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).

Applicant responded to the SOR (Answer) on June 7, 2019. (Government Exhibit 2.) He requested that his case be decided by an administrative judge on the written record. Department Counsel submitted the Government's written case on July 1, 2019. A complete copy of the File of Relevant Material (FORM), containing six Items, was received by Applicant on July 19, 2019. He was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. Applicant submitted a response to the FORM consisting of eleven pages, within the 30-day period. DOHA assigned the case to me on August 20, 2019.

## Findings of Fact

Applicant is 55 years old and is married. He has a high school diploma and military training. He is employed with a defense contractor as an Electrical Integration Analyst. Applicant began working for his current employer in May 2018. A security clearance is necessary in connection with his employment. Applicant served on active duty in the United States Navy from February 1984 until February 2004, when he was honorably discharged.

### Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness, and ability to protect classified information.

The SOR alleges nine delinquent debts totaling approximately \$60,000. Applicant admitted to six of the debts, and denied three. The three debts that Applicant denied, he claims are no longer showing delinquent on his credit reports. Applicant attributes his excessive indebtedness to an auto accident his daughter suffered in April 2008, resulting in traumatic brain injury and permanent disability, as well as the fact that his salary was significantly reduced by his employer in April 2014. At that time, Applicant took a \$12,000 per year salary reduction when a new contractor took over the government contract and reduced the pay of the entire workforce. Applicant states that he went into debt having to purchase expensive medical equipment not covered by his medical insurance for his daughter, such as shower chairs, mattresses and toilets among other things. His reduction in salary only aggravated the problem. Applicant had difficulty meeting his financial obligations.

It also appears that he may have spent more than he could afford simply because those debts that are not medical accounts are consumer debts. To clean up his credit standing and resolve his debt, Applicant hired a professional debt relief company on June 7, 2017. At that time, he entered into a four year agreement with a debt relief company which requires that he pay them \$936 monthly, which is automatically deducted from his bank account, that are dispersed to his creditors. The debt relief company negotiates and pays reduced settlements to the creditors to resolve the debt. (Government Exhibit 2.) Since June 7, 2017, Applicant has continued with this plan and has made regular monthly payments without interruption. The Program Progress Summary from the debt relief company shows the debts included in the program, (which are each of those set forth in the SOR), the payment history, and the settlement amounts. (Applicant's Response to the FORM.) Applicant will complete the debt relief program in June 2021.

The following debts were alleged on the SOR:

1(a) A delinquent debt owed to the Navy Federal Credit Union was charged off in the approximate amount of \$20,387. Applicant has enrolled this debt with the debt relief

company for resolution. (Applicant's Response to the FORM.) It appears from the Program Progress Summary that this debt is still under negotiations. Applicant intends to pay this debt off through the debt relief program.

1(b) A delinquent debt owed to the Navy Federal Credit Union was charged off in the approximate amount of \$16,657. Applicant co-signed for this loan for his daughter and she did not inform him that she defaulted on the loan. It appears from the Program Progress Summary that this debt is still under negotiations. Applicant intends to pay this debt off through the debt relief program. (Applicant's Response to the FORM.)

1(c) A delinquent credit card account was charged off in the approximate amount of \$7,861. Applicant has enrolled the debt with the debt relief company for resolution. It appears from the Program Progress Summary that this debt has been resolved. (Applicant's Response to the FORM.)

1(d) A delinquent credit card account was charged off in the approximate amount of \$6,047. Applicant has enrolled the debt with the debt relief company for resolution. It appears from the Program Progress Summary that this debt is being paid through the debt relief program. (Applicant's Response to the FORM.)

1(e) A delinquent debt was placed for collection in the approximate amount of \$5,942. Applicant has enrolled the debt with the debt relief company for resolution. It appears from the Program Progress Summary that this debt is being paid through the debt relief program. (Applicant's Response to the FORM.)

1(f) A delinquent medical account was placed for collection in the approximate amount of \$126. Applicant states that the account is no longer showing delinquent on his credit reports. Applicant has paid the debt and has attached the receipt. (Applicant's Response to the FORM.)

1(g) A delinquent medical account was placed for collection in the approximate amount of \$110. Applicant states that the account is no longer showing delinquent on his credit reports. Applicant provided a copy of the receipt showing that he paid the debt on July 26, 2019. (Applicant's Response to the FORM.)

1(h) A delinquent medical account was placed for collection in the approximate amount of \$82. Applicant states that the account is no longer showing delinquent on his credit reports. Applicant provided a copy of the receipt showing that he paid the debt on July 25, 2019. (Applicant's Response to the FORM.)

1(i) A delinquent debt owed to the Navy Federal Credit Union was charged off in the approximate amount of \$3,170. Applicant has enrolled the debt with the debt relief company for resolution. Applicant plans to pay the debt off through the debt relief program. (Applicant's Response to the FORM.)

There is also evidence that Applicant has resolved a debt, not alleged in the SOR, through the debt relief company. (Applicant's Response to the FORM.)

## Policies

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

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security eligibility 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 contained in the record.

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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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

### Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure 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. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Three are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has been delinquently indebted for some time now. He believes his financial problems began in 2008 when his daughter suffered a traumatic brain injury and became permanently disabled. Applicant was forced to spend money he did not have to provide for her needs. To complicate matters, in 2014 his salary at work was significantly reduced. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (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;
- (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;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and 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.

Circumstances beyond Applicant's control started his financial problems. Applicant's daughter was in an auto accident that caused permanent damage. In addition, several years later, Applicant's pay was significantly reduced because the contract was picked up by another contractor who adjusted all of the pay for the company. Understanding that he could not do it by himself, Applicant hired a debt relief company to assist him in resolving his debts. Applicant has already paid off five of the debts listed in the SOR. He is continuing to follow the debt relief program and will have all of his debts resolved by June 2023. There is nothing else in the record that leads one to believe that Applicant is not forthcoming or that he has been unreasonable and irresponsible. In fact, from Applicant's experience, it can be gleaned that he clearly understands the responsibilities required in holding a security clearance. He knows that he must live within his means at all times, and pay his bills in a timely manner. So far, he has acted reasonably and responsibly with respect to his debts. Much of his situation was not his fault, but can be attributed to the fact that he encountered circumstances beyond his control. Accordingly, it is found that his debts are now under control. Furthermore, Applicant has demonstrated that future financial problems are unlikely. Mitigating conditions ¶ 20 (a), (b), (c), and (d) are applicable. There are clear indications that his financial problems are being resolved.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. Applicant understands that he must live within his means and pay his debts in a timely fashion. He must be responsible in every aspect of his life. Applicant has shown good judgment and reliability and demonstrated that he is financially responsible.

Overall, the record evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Financial Considerations security concerns.

### **Formal Findings**

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

Paragraph 1, Guideline F: FOR APPLICANT

Subparagraphs 1.a: through 1.i: For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant national security eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge