



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



In the matter of: )  
)  
) ISCR Case No. 19-02140  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Allison Marie, Esq., Department Counsel  
For Applicant: *Pro Se*  
01/28/2020

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**Decision**

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HEINTZELMAN, Caroline E., Administrative Judge:

Applicant failed to mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**History of the Case**

Applicant submitted a security clearance application (SCA) on August 29, 2018. On July 26, 2019, the Department of Defense (DOD) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F, Financial Considerations. Applicant answered (Answer) the SOR on August 19, 2019, and requested a decision on the record without a hearing.

On September 11, 2019, a complete copy of the File of Relevant Material (FORM), containing six Items, was mailed to Applicant. She received the FORM on September 18, 2019. The FORM notified Applicant that she had an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of her receipt of the FORM. Applicant did not respond to the FORM. The case was assigned to me on December 4, 2019. Items 1 through 7 are admitted into evidence without objection.

## **Findings of Fact**

Applicant is 35 years old and has worked as a dispatcher for a defense contractor since June 2017. She is single and has one minor child. Applicant has attended some community college courses. (Item 4; Item 5)

Applicant was unemployed from August 2008 to June 2009; March 2015 to February 2016; August 2016 to October 2016; and January 2017 to April 2017. She moved across the country in March 2015 and was unable to find employment. Additionally, she was fired from a position in October 2016. (Item 4; Item 5)

The SOR alleged that Applicant has seventeen delinquent debts, totaling over \$42,000. The debts became delinquent between approximately 2014 and 2018. The majority of the debts are related to revolving accounts, utility bills, a repossessed vehicle, and a debt related to an apartment lease. (Item 1; Item 5; Item 6; Item 7)

During her March 2019 personal subject interviews with a government investigator, Applicant indicated that her debts were the result of her various periods of unemployment and her maternity leave following the May 2018 birth of her son. She is willing to repay her financial obligations, but does not have the resources and, as a result, has not yet resolved the delinquent debts. Applicant has not attended credit counseling. (Item 5)

In her Answer, Applicant admitted all of the alleged debts, but provided no explanation, additional information, or supporting documentation. She did not respond to the FORM. (Item 2; Item 3)

## **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. Instead, 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(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 access to classified information will be resolved in favor of the 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, 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 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 that an applicant may deliberately or inadvertently fail to 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 Exec. Or. 10865 provides that 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* Exec. Or. 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F: Financial Considerations**

The security concern under Guideline F 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. . . .

Applicant’s admissions and the record evidence establish two disqualifying conditions under this guideline: AG ¶ 19(a) (“inability to satisfy debts”), and AG ¶ 19(c) (“a history of not meeting financial obligations”).

AG ¶ 20 describes conditions that could mitigate those security concerns. The following are potentially applicable:

(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; and

(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.

Over the years, Applicant has experienced several periods of unemployment. Some of these appear to have been beyond her control. However, she still has a responsibility to pay debts that she incurred, and she failed to meet her burden of production and persuasion to show that she acted responsibly to address her delinquent debts. There is no record evidence that she has made payments toward the alleged debts. Therefore, Applicant has not demonstrated that she has made a good-faith effort to repay her overdue creditors or resolve her debts.

There is insufficient evidence to show that her finances are in good standing and that circumstances have changed. I find that Applicant will likely allow her debts to continue to become or remain delinquent. Applicant provided no evidence of credit counseling. Mitigation under AG ¶ 20(a) and 20(b) was not established.

### **Whole-Person Concept**

Under AG ¶ 2(c), the ultimate determination of whether the granting or continuing of national security eligibility is clearly consistent with the interests of national security must be an overall common sense judgment based upon careful consideration of the applicable guidelines, each of which is to be evaluated in the context of the whole person.

An 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.

I have incorporated my comments under the guideline at issue in my whole-person analysis, and I have considered the factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under this guideline, and evaluating all the evidence in the

context of the whole person, I conclude that Applicant has not mitigated the security concerns at issue. The record lacks sufficient evidence to demonstrate that she has resolved the alleged delinquent debts. Accordingly, Applicant has not carried her burden of showing that it is clearly consistent with the interests of national security of the United States to grant her eligibility for access to classified information.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a – 1.q:	Against Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the interests of national security of the United States to grant or continue Applicant's eligibility for access to classified information. National security eligibility is denied.

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CAROLINE E. HEINTZELMAN  
Administrative Judge