



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



In the matter of:	)	
	)	
	)	ISCR Case No. 19-02852
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Adrienne M. Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

05/26/2020

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**Decision**  
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COACHER, Robert E., Administrative Judge:

Applicant has not mitigated the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On November 19, 2019, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F, financial considerations. The DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

Applicant answered the SOR on December 19, 2019, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's File of Relevant Material (FORM) on February 11, 2020. The

evidence included in the FORM is identified as Items 2-5 (Item 1 includes pleadings and transmittal information). The FORM was mailed to Applicant, who received it on February 24, 2020. Applicant was given an opportunity to file objections and submit material in refutation, extenuation, or mitigation. He did not submit any evidence or file objections to the Government's evidence. Items 2-5 are admitted into evidence without objections. The case was assigned to me on May 12, 2020.

### **Findings of Fact**

Applicant admitted all of the SOR allegations, with explanations (SOR ¶¶ 1.a-1.o). The admissions are adopted as findings of fact. After a careful review of the pleadings and evidence, I make the following additional findings of fact.

Applicant is 45 years old. He has worked for a government contractor as a security officer since June 2010. He also works part time in the commercial sector. He received his associate's degree in 1995. Between 1995 and 2002, he was enrolled in additional course study, but no degree was achieved. He is divorced and has one minor child who resides with him. (Items 2-3)

The SOR alleged 17 delinquent debts totaling approximately \$77,000. The debts are comprised of collection accounts (consumer debts, student loans, and an automobile debt). The debts are supported by a credit report from May 2019, his statement to an investigator in June 2019, and his SOR admissions in his answer. (Items 1, 3, 5)

Applicant attributes his financial problems to not making enough money to pay his financial obligations. His largest debts are his student loans, with a delinquent balance of over \$62,000. He failed to take advantage of deferring these loans, and when they became due he could not afford the payments. He claims that his wages are being garnished to pay these loans, but he failed to produce documentation to support his claim. As for the remaining debts, Applicant stated that he had a budget plan to stay financially sound, but again he did not provide any documentation supporting the existence of such a plan. He also claimed a foot injury affected his ability to work. He did not provide details about the injury or documentation as to how it impacted his work schedule. Applicant presented no evidence of taking other action to pay or otherwise resolve the SOR debts. Applicant's debts remain unresolved. (Items 1-3, 5).

### **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 national security eligibility 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 about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 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* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline F, Financial Considerations**

AG ¶ 18 expresses the security concern for financial considerations:

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. I have considered all of them under AG ¶ 19 and the following potentially apply:

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

Applicant's delinquent debts remain unpaid or unresolved. I find the above disqualifying conditions are raised.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

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

Applicant's debts are recent and remain unresolved. He did not provide sufficient evidence to show that his financial problems are unlikely to recur. AG ¶ 20(a) does not apply. Applicant presented some evidence that the debts were due to circumstances

beyond his control (a foot injury causing impact on his ability to work). He did not present evidence showing that he has taken responsible action to resolve his debts. I find AG ¶ 20(b) does not fully apply. Applicant made an unsupported claim that his wages are being garnished to pay his student loans. Even if that is so, payment through garnishment does not equate to making good-faith efforts to pay a debt because of the involuntary nature of garnishment. He failed to provide documentation showing any efforts to make voluntary payments on the listed debts. There is no evidence he obtained financial counseling. AG ¶¶ 20(c) and 20(d) do not apply.

### **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 the 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 guideline and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's medical issue that affected his ability to work. However, he also failed to present documentation showing any payments toward his debts. Applicant has not established a track record of financial stability.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline F, financial considerations.

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

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Robert E. Coacher  
Administrative Judge