



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXXXXXXXXXX)	ISCR Case No. 19-03324
)	
Applicant for Security Clearance)	

Appearances

For Government: Andrew H. Henderson, Esquire, Department Counsel
For Applicant: *Pro Se*

12/15/2020

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case [The File of Relevant Material (FORM), Items 1-6 and Applicant's Response to the FORM (Response)], I deny Applicant's clearance.

On 13 February 2020, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.¹ Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 10 August 2020, when Department Counsel stated no objection to Applicant's Response to the FORM. DOHA assigned the case to me 1 December 2020.

¹DoD acted 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 Security Executive Agent Directive 4, effective 8 June 2017.

Findings of Fact

Applicant admitted the 2014 foreclosure on his home, and accumulating over \$10,000 delinquent debt (SOR 1.a-1.i). He disclosed the foreclosure and his state tax debt (SOR debt 1.c and 1.a) on his October 2017 clearance application (Item 2). He discussed the SOR debts—albeit some under a prior creditor or collection agent—during his November 2018 interview with a Government investigator (Item 3), based on his December 2017 credit report (Item 4). He claimed at the time to have no knowledge of SOR debts 1.d and 1.h, and incorrectly claimed to have made a repayment plan for SOR debts 1.f-1.g and 1.i in January 2018, and to have paid them in full. In his Answer, he stated that he still owed about \$300 of the alleged \$737. Department Counsel did not provide a copy of the receipt Applicant claimed to have submitted with his Answer, and diligent search of DOHA records did not produce any such receipt. However, the amount at issue in the three debts is incidental to the overall decision in this case.

Applicant is a 46-year-old principal systems engineer employed by a U.S. defense contractor since October 2014. He documents continuous employment in similar positions since at least November 2009, but reports small breaks in employment when contracts ended, and he had to find employment with a new contractor. He served honorably in the U.S. military from September 1994 to April 1999. He has twice married, and has two sons with his first wife, and a step-child with his second wife. He held a clearance when he was in the military, but has never held an industrial clearance (Item 2).

Applicant describes a lengthy history of financial pressures, beginning with his 2009 divorce from his first wife. He experienced job loss due to reductions in force or furloughs in 2012, 2013, and 2014, resulting in the foreclosure on his house (Item 2, 3; Response). In addition to his divorce expenses, Applicant and his wife had child custody issues with her child between 2015 and 2017 (Response). His wife had medical issues in 2018. Moreover, she has been unable to work in 2020 because of pandemic restrictions.

Applicant's Answer (Item 1) admitted the SOR allegations, but, except for the SOR 1.f-1.g and 1.i medical debts, did not otherwise illuminate his financial situation. He documented no efforts to contact any of his creditors or to provide a current status of his debts. He documented no credit or financial counseling, and did not submit a budget. He provided no work or character references, or evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to

classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.²

Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to mitigate the security concerns. He experienced financial pressures beginning in 2009, and accumulated significant delinquent debt—albeit largely due to circumstances beyond his control. Nevertheless, he documented no efforts to address the bulk of his \$10,000 delinquent debt.³

Applicant meets none of the mitigating conditions for financial considerations. His indebtedness is multiple, recent, and ongoing.⁴ Moreover, while Applicant can demonstrate that his indebtedness was largely due to circumstances beyond his control, it is clear that he has not been responsible in addressing his debts.⁵ The three medical debts Applicant claims to have addressed initially totaled \$737, but, at best, have only been reduced to about \$300 between January 2018 and August 2020.

Applicant has not had any credit or financial counseling, and he has not documented that the debts are being resolved.⁶ The absence of documentation means

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

³¶9(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so;(c) a history of not meeting financial obligations;

⁴¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁵¶20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

⁶¶20(c) the person has received or is receiving counseling for the problem and there are clear indications

Applicant cannot demonstrate that he has made a good-faith effort to resolve his debts.⁷ Moreover, he submitted no work or character evidence which might support a whole-person assessment to overcome the security concerns raised by his conduct. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-i:	Against Applicant

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge

that the problem is being resolved or is under control;

⁷¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.