

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

In the matter of: )  
 )  
XXXXXXXXXXXXXXXXX ) ISCR Case No. 19-03023  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Tara R. Karoian, Department Counsel  
For Applicant: *Pro Se*

01/04/2022

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

Based on the File of Relevant Material (FORM), Items 1-14, I deny Applicant's clearance.

On 19 November 2019, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct.<sup>1</sup> Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record closed 6 May 2021, the day Applicant's response to the FORM was due. Applicant provided no additional documentation. DOHA assigned the case to me 24 June 2021.

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<sup>1</sup>DoD 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 on 8 June 2017.

## **Findings of Fact**

Applicant admitted the SOR allegations. He is a 35-year-old field technician employed by a U.S. defense contractor since about April 2018. He was is employed by his clearance sponsor in a similar position from July 2014 to March 2018. He initially was given a clearance during his honorable active-duty service in the U.S. military from about December 2008 to about October 2012. He married in August 2009, and has a seven-year-old daughter.

The SOR alleges, Items 4-5 establish, and Applicant admits, 14 delinquent debts totaling nearly \$38,000. The bulk of the debt consists of \$18,679 for overpayments made to Applicant on his military accounts (SOR 1.a) and \$14,164 for a repossessed automobile (SOR 1.b). The remaining debts are for unpaid rent, two medical bills, two cable providers, and a consumer credit account. He attributes his debts to a period of underemployment following his discharge from active duty, but has not otherwise provided details about the origination of the debts or any efforts to resolve them.

Applicant reported no delinquent debts on his 15 March 2018 clearance application (Item 3). During a 5 April 2019 interview with a Government investigator (Item 7), Applicant initially denied having any delinquent debts, but was confronted with SOR debts 1.b-1.c and 1.f-1.h based on his 13 March 2018 credit report (Item 6). He claimed to have been unaware of the debts, but said he would check his credit report. He later reported to the investigator that the debts were his, and he would make arrangements to pay the debts within 60 days. He has documented no actions to resolve these debts. Applicant previously had been confronted with delinquent debts (later resolved) during a 21 October 2011 interview with a Government investigator (Item 11), involving unpaid parking tickets which his mother later paid [15 September 2011 credit report (Item 10); 31 December 2008 credit report (Item 13)]. Applicant was also the subject of a 16 February 2021 incident report under the DoD Continuous Evaluation Program (Item 14), showing \$19,444 in delinquent debt on a 7 January 2021 credit report, including SOR debts 1.b-1.e and 1.h, and two debts not alleged in the SOR.

Applicant's Answer stated his intent to variously arrange repayment plans (SOR 1.a-1.b, 1.h), arrange payment plan and pay within six months (SOR 1.c), resolve within 90 days (SOR 1.d-1.f), and resolve within 30 days (SOR 1.g). He provided no evidence that he had undertaken any of the promised actions. He provided no evidence of financial or credit counseling, or a budget. He provided no work or character references, or evidence of any community involvement. He provided no evidence of his current financial situation, including his income, living expenses, and debts.

## **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(d). 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 guidelines are Guideline F (Financial Considerations) and Guideline E (Personal Conduct).

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.<sup>2</sup>

### **Analysis**

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties for which he did not undertake timely resolution.<sup>3</sup> Applicant knew he had significant delinquent debt since at least April 2019, yet has undertaken no documented efforts to resolve the debts.

Applicant meets none of the mitigating conditions for financial considerations. The financial problems were recent, not infrequent, and not clearly due to circumstances unlikely to recur.<sup>4</sup> Moreover, Applicant's financial problems were not documented to be due to not circumstances beyond his control, and he was not responsible in addressing the debts, even after his subject interviews.<sup>5</sup> Applicant submitted no evidence to show credit or financial counseling, or that his debt is being resolved.<sup>6</sup> His belated effort does

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

<sup>3</sup>§19(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;

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

<sup>5</sup>§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;

<sup>6</sup>§20(c) the person has received or is receiving counseling for the problem and there are clear indications

not constitute a good-faith effort to address his debts.<sup>7</sup> Furthermore, Applicant provided no “whole-person” evidence to mitigate the security concerns raised by his inaction his debts. Accordingly, I conclude Guideline F against Applicant.

The Government established a case for disqualification under Guideline E, and Applicant failed to mitigate the security concerns. Given his experience with past background investigations, in which he had been confronted with other delinquent debt, I find his statement that he did not remember any of his delinquent debt—particularly his indebtedness on his military accounts—not to be credible.<sup>8</sup> No mitigating conditions are raised by the facts. Accordingly, I resolve Guideline E against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-h:	Against Applicant
Paragraph 2. Guideline E:	AGAINST APPLICANT
Subparagraph a:	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.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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that the problem is being resolved or is under control;

<sup>7</sup>§20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

<sup>8</sup>§16(a) deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;