

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

In the matter of: )  
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XXXXXXXXXXXXXXXXXXXXXXXXXXXX ) ISCR Case No. 19-02655  
 )  
Applicant for Security Clearance )

**Appearances**

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

01/04/2022

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the File of Relevant Material (FORM), Items 1-7 and Applicant's Response to the FORM (Response), I deny Applicant's clearance.

On 28 October 2019, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>1</sup> 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 11 March 2021, when Department Counsel stated no objection to Applicant's Response to the FORM. DOHA assigned the case to me 8 April 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 8 June 2017.

## Findings of Fact

Applicant admitted the child support debt at SOR 1.b; although he asserted that the debt was now about \$3,000. He denied the remaining allegations, claiming that some of the debts were duplicates, some had been paid, and some had been paid down.

Applicant is a 41-year-old air battle management subject matter expert employed by a U.S. defense contractor since July 2018. He served honorably in the U.S. military from about March 1998 to about March 2018, when he retired. He held a clearance early in his military career, but was denied a clearance in August 2009 for financial issues. He has not previously held an industrial clearance (Item 3).

From September 1998 to July 2016, Applicant fathered six children with four different women in four different states. He does not have eight children as stated in the FORM. Nor did he omit two children from his clearance application (Item 3) as stated in his May 2019 interview with a Government investigator (Item 7). The two children listed as missing from the clearance application in Item 7 are clearly listed in Item 3. The given names, dates of birth, and states of birth match exactly.

Applicant was born in early September 1979. He graduated from a hometown high school in May 1997. He enlisted in the U.S. military in about March 1998. His first child, a son, was born 01 September 1998, in Applicant's hometown. The record is unclear whether Applicant was aware of this pregnancy and birth at the time, or at what point the mother began pursuing child support, but at the time of Applicant's 12 September 2018 credit report (Item 6)—two years after his son turned 18 years old—his child support arrears to this state was the nearly \$13,000 alleged at SOR 1.e. This allegation appears to be a duplicate of SOR debt 1.d, based on the delinquent amount reported in Applicant's 30 July 2019 credit report (Item 5). Applicant denied SOR debt 1.e based on the fact that his 27 January 2020 credit report (Answer) showed that his 27 December 2019 balance had been reduced to \$3,489. Applicant's 13 December 2020 credit report (Item 4) showed the account as "paid collection" in November 2020. Applicant's Response to the FORM shows a last payment to the state on 8 December 2020, a termination of a withholding order for support from Applicant's military retirement of uncertain date, and a 25 January 2021 credit reporting a zero balance on this account as of 27 November 2020.

Applicant's second child, a daughter, was born 2 February 2000, in the state that appears to have been Applicant's first non-training, active duty station. Again, the record is unclear whether Applicant was aware of this pregnancy and birth at the time, or at what point the mother began pursuing child support, but at the time of Applicant's 12 September 1998 credit report (Item 6)—seven months after his daughter turned 18 years old—his child support arrears to this state was slightly more than the \$5,436 alleged at SOR 1.b. The alleged amount is the amount from Applicant's 30 July 2019 credit report (Item 5). However, Applicant's 13 December 2020 credit report (Item 4), shows a collection amount of \$4, based on a last payment date of September 2020. However, at the time the creditor was not able to locate the Applicant. Applicant noted that this account did not appear on his 27 January 2020 credit report (Answer), but that is because the

creditor did not report this account to the credit bureau Applicant used at the time. He later admitted owing \$3,000. However, his 25 January 2021 credit report (Response) shows the account (opened in March 2000) closed as of 31 December 2020 with the same \$4 delinquent balance listed in Item 4. The record is unclear whether Applicant was paying voluntarily or having his wages garnished.

Applicant had three children with his wife, whom he married 6 March 2000. She was pregnant when they married, and Applicant's third child, a second daughter was born on 18 April 2000, in the same state as his out-of-wedlock daughter. Applicant's fourth child, a second son, was born 22 July 2002, and his fifth child, a third daughter, was born 3 May 2006, both near Applicant's next duty station in another state.

Two duty stations later, Applicant and his wife divorced on 23 May 2011, and it appears his ex-wife and the three children moved to her hometown. That may explain the delinquent child support in the state where they divorced (SOR 1.c) and the state where she moved (SOR 1.f). SOR debt 1.c alleges \$5,254 child support, of which \$4,718 is delinquent as of July 2019 (Item 5). SOR debt 1.f alleges \$11,971 child support, all of it delinquent as of October 2015 (Item 6). However, Applicant's 30 December 2020 credit report (Item 4) shows that the account was "paid as agreed" before being transferred/sold in October 2015. Nevertheless, it seems Applicant's ex-wife may have moved again, leading to the child support debts at SOR 1.a and 1.g.

SOR debts 1.a and 1.g are with the same state, and there seems to have been a third account with that state, documented by Applicant's 27 January 2020 credit report (Answer), which shows an account seriously past due for \$502. However, this account does not appear on any of the credit reports obtained by the Government. SOR debt 1.a appears on all three Government-obtained credit reports (Items 4-6), alleged in the amount appearing on both the 13 December 2020 (Item 4) and 30 July 2019 (Item 5) credit reports, and with an account number distinct from both Applicant's 27 January 2020 credit report and the account number for SOR debt 1.f, which appears on Applicant's 12 September 2018 credit report (Item 6) in the SOR-alleged past due amount.

Finally, in July 2016, Applicant had his sixth child, another daughter, with another woman, in the state where he was last stationed. Beyond listing his wife and children as required on his clearance application, Applicant has explained very little about the circumstances attending the births of his children. His 2 May 2019 subject interview (Item 7) suggests that paternity tests established his parenthood in any case where it might have been at issue, but he has not explained the timing of any of these events other than the actual births.

The SOR alleges, and Items 3-7 document, 11 delinquent debts totaling nearly \$59,000. Applicant admits one debt, asserting that it is significantly lower than the amount alleged in the SOR. The debts consist of over \$56,000 in delinquent child support payments to five states, and four delinquent commercial accounts totaling almost \$2500, that Applicant claims to have paid.

Applicant disclosed SOR debts 1.e, 1.g, 1.h, 1.i, and 1.k on his 3 August 2018 clearance application (Item 3). He discussed and confirmed these debts during his 2 May 2019 interview with a Government investigator (Item 7), but also agreed to the other SOR debts reported on Applicant's 12 September 2018 credit report (Item 6), including the child support debts at SOR 1.a, 1.b, and 1.f. At the time, he said he did not recognize SOR debt 1.j because he thought he only had one account with that creditor. He claimed to have paid SOR debts 1.h-1.k, but provided no documentation. However, Applicant's 13 December 2020 credit report (Item 6) shows SOR debt 1.i paid in May 2019.

Aside from more recent credit reports from the credit bureau which originally reported the fewest of the SOR debts, an undated termination of income withholding support order from the state listed in SOR debts 1.d-1.e from his military retirement, and an 8 December 2020 payment receipt from the same state. Applicant 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. It appears that except for his two youngest daughters, born in 2006 and 2016, respectively, his ongoing child support obligations have expired, except for any arrears still due.

### **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.<sup>2</sup>

## 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 1998, accumulated significant delinquent debt during his military service due to his child support obligations exceeding what the military could legally withhold from his pay and allowances, and the ensuing indebtedness cannot be said to have been largely due to circumstances beyond his control. Moreover, while he appears to have made substantial progress on his child support arrears after augmenting his military retirement with his current job, it appears that that progress has been accomplished through ongoing garnishment of his wages. Furthermore, he did not corroborate his claimed payments on his consumer credit accounts; nor did he provide evidence of his actual child support obligations in the several states which reported them to the credit bureaus.<sup>3</sup> Applicant appears to have had a 20-year career in the military, the last half of which was under such financial strain that the military denied him a clearance. The macro view of his finances from his credit reports is sufficient to establish the security concerns raised by the Government, but insufficient to supply the mitigation; Applicant failed to provide the micro view of his finances necessary to conclude that these security concerns have been mitigated. Even the child support obligations that appear to have been resolved have been finally resolved only after Applicant received the SOR.

Applicant meets none of the mitigating conditions for financial considerations. His indebtedness is multiple, recent, and ongoing.<sup>4</sup> Moreover, Applicant cannot demonstrate that his indebtedness was largely due to circumstances beyond his control, and he has not demonstrated that he has been responsible in addressing his debts.<sup>5</sup> The lack of any detail regarding his dealings with the state agencies responsible for child support obligations precludes a finding that his dealings have been responsible.

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

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

<sup>3</sup>§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;

<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 that the problem is being resolved or is under control;

Applicant cannot demonstrate that he has made a good-faith effort to resolve his debts.<sup>7</sup> 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-h, j-k:	Against Applicant
Subparagraph i:	For 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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<sup>7</sup>§20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.