



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



In the matter of: )  
)  
) ISCR Case No. 21-01532  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara Karoian, Department Counsel  
For Applicant: *Pro se*

April 27, 2022

**Decision**

LOKEY ANDERSON, Darlene D., Administrative Judge:

**Statement of Case**

On September 10, 2020, Applicant submitted a security clearance application (e-QIP). On September 20, 2021, 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 action was taken 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 the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on a date uncertain, and requested a hearing before an administrative judge. The case was assigned to me on December 20, 2021. The Defense Office of Hearings and Appeals issued a notice of hearing on March 3, 2022, and the hearing was convened as scheduled on April 6, 2022. The Government

offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. Applicant offered six exhibits, referred to as Applicant's Exhibits A through F, which were admitted without objection. Applicant testified on his own behalf. The record remained open following the hearing, until close of business on April 13, 2022, to allow Applicant the opportunity to submit additional supporting documentation. Applicant submitted one Post-Hearing Exhibit, admitted into evidence as Applicant's Post-Hearing Exhibit A. DOHA received the final transcript of the hearing (Tr.) on April 15, 2022.

### **Findings of Fact**

Applicant is 61 years old. He is married, and has one adult child. He has a high school diploma. He holds the position of Quality Assurance Inspector. He is seeking to obtain a security clearance in connection with his employment.

### **Guideline F - Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

The SOR alleged that Applicant incurred two large delinquent debts owed to a creditor on two accounts that were charged off totaling approximately \$46,968. In his answer, Applicant admits both of the allegations set forth in the SOR. Credit reports of the Applicant dated September 26, 2020; May 5, 2021; and April 6, 2022, confirm that he was once indebted to the creditor for both accounts listed in the SOR. (Government Exhibits 3, 4, and 5.)

Applicant served in the Air National Guard from July 1978 to December 1983. He began his current employment in 1985. He started as a Warehouse Specialist and was promoted to the position he now holds. Applicant applied for and received his first security clearance in 2010.

In 2000, Applicant got married. At that time, he and his wife were both gainfully employed, and shared the responsibility of paying the household expenses. Applicant's wife handles all of their financial matters, and pays all of the bills. In 2014, Applicant's wife lost her job. This impacted Applicant's ability to pay the bills. (Applicant's Answer to SOR.)

1.a. Prior to his wife's lay-off, Applicant opened a credit card account or personal loan that he used to pay bills. When his wife lost her job, Applicant was unable to keep up with the payments on the personal loan, and by February 2016, the personal loan was placed for collection. This account was eventually charged off in the amount of approximately \$29,229. A judgment was entered against the Applicant by the creditor. Applicant's wages were garnished for collection of the debt. Applicant has satisfied the

debt in full, as evidenced by the Satisfaction of Judgement and/or Release of Garnishee dated November 9, 2021. (Applicant's Exhibit A.)

1.b. In 2014, Applicant opened another personal loan account for a flex credit card to help with electrical bills and things his wife needed. Applicant tried to keep up with the payments for a period, but could not afford to continue it. In 2016, the debt was placed for collection, and eventually charged off in the amount of approximately \$19,623. A judgment was entered against the Applicant by the creditor. Applicant's wages are currently being garnished in the amount of \$493 per pay check for collection of the debt. (Tr. p. 33-36.) Applicant testified that he has approximately \$4,000 left in garnishment payments until he resolves the debt. (Tr. p. 38, and Applicant's Exhibits B, C and F.)

Applicant testified that he has no other delinquent debts. He and his wife together currently earn about \$60,000 annually. (Tr. p. 44.) They have gone to credit counseling to improve their spending habits, and to be more effective in budgeting their incomes. Applicant no longer eats out, but brings his lunch to work. His wife is now working two jobs, working six to seven days a week at a hospital and a hotel. (Tr. p. 40.) Applicant is current with his regular monthly payments of \$424 towards his car payment. Applicant has incurred no new delinquent debt. (Tr. p. 41.) Although their finances are tight now, once the remaining \$4,000 in garnishment payment is completed, Applicant will have almost \$500 extra a month that can be used to pay other expenses. (Tr. p. 43.)

Annual performance appraisals of the Applicant for the periods from 2020, 2021, and 2022 reflect "good performance" and "high performance" ratings. Applicant is described as a hardworking, highly skilled, knowledgeable team leader. (Applicant's Post-Hearing Exhibit A.)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be 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, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable clearance 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 the 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 EO 10865 provides that adverse 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**

The security concern for Financial Considerations 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. 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 under AG ¶ 19. Two are potentially applicable in this case:

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

Applicant has a history of financial hardship brought on by his wife's loss of employment, and spending beyond his means. His actions or inactions both demonstrated a history of not addressing his debt and an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20.

- (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, or a death, divorce, or separation), and the individual acted responsibly under the circumstances;
- (d) the individual initiated and is adhering to a good faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant has recently directed his focus at resolving his delinquent debts. He now realizes the importance of being responsible and trustworthy in every aspect of his life, including his finances. He has completely resolved one of his large delinquent debts through payroll garnishment. He is currently resolving the second large debt through payroll garnishment that will be paid off in full fairly soon. Applicant has gone to financial counseling and has modified his spending habits and set up a budget that he is following in order to be more financially responsible. Applicant has demonstrated responsibility and good judgment, reliability, and trustworthiness. Mitigating conditions 20(a), 20(b), and 20(d) are applicable.

There is sufficient evidence in the record to show that Applicant's delinquent debts have or are been resolved. Overall, Applicant has shown significant progress towards resolving his debts. He still owes about \$4,000 in debt toward his creditor, but he is making regular payments through his payroll garnishment. There is sufficient evidence in the record to show that the Applicant has carried his burden of proof to establish mitigation of the government security concerns under Guideline F.

### **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 relevant 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 guidelines and the whole-person concept. Applicant must continue to follow through with his commitment to show financial responsibility in the future, or he will once again be in jeopardy of losing his security clearance and access to classified information.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has mitigated the Financial Considerations security concern.

### **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: FOR APPLICANT

Subparagraphs 1.a. and 1.b. For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson  
Administrative Judge