



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



In the matter of:)	
)	
)	ISCR Case No. 21-01488
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro se*

05/16/2022

Decision

Curry, Marc E., Administrative Judge:

Applicant failed to mitigate the financial considerations security concern generated by his delinquent debts. Clearance is denied.

Statement of the Case

On July 9, 2021, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DOD CAF took the action under Executive Order (EO) 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 Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On July 31, 2021, Applicant answered the SOR, denying all of the allegations except subparagraphs 1.d and 1.g. He requested a decision without a hearing. On August 11, 2021, Department Counsel prepared a File of Relevant Materials (FORM) setting forth the Government’s argument in support of the

SOR, together with supporting documentation. Applicant received a copy of the FORM on August 31, 2021, and was instructed to file any objections to this information, or to supplement the file within 30 days of receipt. Applicant did not respond. On December 2, 2021, the case was assigned to me.

Findings of Fact

Applicant is a 40-year old single man with three children. Four previous marriages ended in divorce. (Item 3 at 19-21) He is a high school graduate, as well as a veteran of the U.S. Air Force where he served honorably from 2000 to 2006. (Item 3 at 17) He has been working as a cabinet installer since 2020. (Item 3 at 13) Previously, he was the fire chief of a municipality for five years.

Per three credit reports pulled between 2020 and 2021, Applicant owes approximately \$21,000 in delinquent debt. (Items 5 -7) Applicant neither provided any evidence supporting the basis of his disputes of the debts that he denied, nor did he provide any evidence or plans to resolve the debts that he admitted. During his subject interview, he attributed his financial problems to job changes and divorce. Applicant included his employment history on his security clearance application from 2009 to 2020. It does not reflect any periods of unemployment. (Item 3 at 12 -15)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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 overall 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 ¶ 1(d) 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, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or

mitigate facts admitted by applicant or proven by Department Counsel. . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline F: Financial Considerations

Under this concern, “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.” (AG ¶ 18) Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

Applicant provided no evidence substantiating the basis of his denials, nor did he provide any evidence of steps taken to resolve the debts that he admitted. His contention that employment problems contributed to his financial problems is unsupported by record evidence. Under these circumstances, I conclude that none of the mitigating conditions apply.

Whole-Person Concept

Given the paucity of evidence on file, there are no whole-person considerations that would warrant a favorable conclusion. I conclude Applicant has failed to mitigate the security concerns.

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.o:

Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Marc E. Curry
Administrative Judge