



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



In the matter of:	)	
	)	
	)	ISCR Case No. 20-01678
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: John Lynch, Esq., Department Counsel  
For Applicant: *Pro se*

06/01/2022

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**Decision**

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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 January 11, 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 12, 2021, Applicant answered the SOR and requested a decision without a hearing. Because he did not explicitly admit or deny the individual allegations, DOD CAF contacted him and requested that he provide a supplemental answer. On October 5, 2021, Applicant filed another answer, explicitly denying all of the allegations. On December 13, 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 December 20, 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 February 7, 2022, the case was assigned to me.

### **Findings of Fact**

Applicant is a 58-year-old high-school graduate with two adult children. He has been married since 2005. A previous marriage ended in divorce in 1989. Since 2019, he has been working for a defense contractor as a custodian. (Item 5 at 11)

Applicant has approximately \$57,445 of delinquent debt. As of the date of the SOR, approximately \$49,000 of this debt constitutes a child support arrearage, as alleged in subparagraph 1.a. (Item 1 at 1) Approximately \$4,000 of this debt constitutes delinquent medical debt owed to the same hospital. (Item 2 at 7)

Applicant contends that he incurred his debts because he tried "to handle too many things at one time." (Item 2 at 7) He has been paying his child support payments through a wage garnishment. (Item 10 at 4) As of December 2021, the balance was \$46,445. (Item 5 at 5)

In February 2021, one month after the SOR issuance, Applicant consulted a debt relief agency to help him settle his debts. (Item 2 at 15-20) With the help of the debt relief agency, he organized a payment plan. It includes debts that were not listed in the SOR, including an \$8,829 hospital bill. (Item 2 at 16) Under the program, which is expected to last 50 months, Applicant is to make monthly payments of \$325. (Item 2 at 20) He provided no documentation of any payment chronology.

### **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.”

Because Applicant’s financial problems are ongoing, 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,” does not apply.

Applicant did not specifically address whether his debts were caused by circumstances beyond his control. Therefore, AG ¶ 20(b), “the condition that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a

business downturn, unexpected medical emergency, a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances,” does not apply.

Applicant retained a debt relief agency to help him organize a payment plan to resolve the debts. However, he provided no evidence of any progress with debt reduction. Consequently, AG ¶ 20(c) is partially applicable, in that he is receiving help, but I cannot conclude that there are “clear indications that the problem is being resolved or is under control,” given the lack of evidence of progress.

Similarly, Applicant’s initiation of a debt-payment plan triggers the first prong of AG ¶ 20(d) that credits applicants for organizing good-faith payment plans. However, the second prong, relating to whether the applicant is adhering to the plan, is inapplicable. None of the remaining mitigating conditions are relevant to the analysis.

### **Whole-Person Concept**

I was troubled by Applicant’s child support delinquency. Failure to abide by the legal and ethical obligation to support one’s children is particularly egregious. Having considered the disqualifying and mitigating conditions in the context of the whole-person concept, I conclude Applicant has failed to mitigate the financial considerations 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.q:	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.

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Marc E. Curry  
Administrative Judge