



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-00902
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Gatha Manns, Esq., Department Counsel  
 For Applicant: *Pro se*  
 08/18/2022

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. He owes over \$45,000 in unresolved delinquent debts. Clearance is denied.

**Statement of the Case**

On April 30, 2021, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline. This action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated 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*, implemented on June 8, 2017. DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

Applicant answered the SOR and requested a decision without a hearing. (Government Exhibit (GE) 2.) The Government submitted its written case on December

30, 2021. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. He acknowledged receipt of the documents on February 1, 2022, and did not respond. The documents appended to the FORM are admitted to the record as Government's Exhibits (GE) 1 through 6. The case was assigned to me on April 12, 2022.

### **Findings of Fact**

Applicant, 38, has worked in technical support since December 2017. Although he has worked in the same position, his federal contractor employer has changed. He completed a security clearance application in March 2020, and did not disclose any disqualifying information. The ensuing investigation revealed that he owed \$45,458 in delinquent debt. (GE 3 - 5)

Applicant served in the U.S. Army from February 2003 to June 2010. While he was stationed in Germany, he met his wife, a German citizen, whom he married in May 2007. After his separation from the U.S. Army, he remained in Germany. Although he took college classes between 2011 and 2017, he did not earn a degree. Professionally, Applicant worked part time as a civilian employee. In October 2016, he decided to return to the United States, living and working for one year before returning to Germany. (GE 3)

In July 2017, Applicant began working on a U.S. military installation. It is unclear if he did so as a civilian employee or as a federal contractor employee. He left the position in November 2019, after accepting his current position. (GE 3)

The SOR alleges that Applicant is indebted to 14 creditors for \$45,458 in delinquent debt. The majority of that amount, 63%, is for four delinquent student loans totaling \$28,813 (SOR ¶¶ 1.a – 1.d). The next largest delinquent debt, SOR ¶ 1.o, is the deficiency balance on a car repossession for \$7,021, followed by a delinquent debt to another government agency for \$2,622 (SOR ¶ 1.p). The remaining debts are consumer accounts.

Applicant admits owing the debts alleged in SOR ¶¶ 1.a – 1.h and 1.j – 1.n. He has contacted the creditors alleged in SOR ¶¶ 1.f and 1.h and inquired about how to return the accounts to good standing. He admits owing a deficiency balance on the car repossession in SOR ¶ 1.o, but disagrees with the SOR allegation as to the amount owed. He denies the debts alleged in SOR ¶¶ 1.i and 1.r, because he does not know their origins. He denies SOR ¶ 1.q claiming that it is a duplicate of SOR ¶ 1.m. He does not provide any answer or explanation for SOR ¶ 1.p, the delinquent debt owed to the other government agency. (GE 1-2)

Applicant blames his financial problems on earning insufficient income after separating from the Army in June 2010. Currently, he and his wife earn enough money to pay their recurring bills. In his answer to the SOR, Applicant expressed his intention to repay his outstanding delinquent debt by paying off what he can immediately and

using a debt consolidation loan to address the other debts. He did not provide any corroborating evidence of this plan. (GE 2,3)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. 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. According to AG ¶ 2(c), 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.

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.

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**

### **Financial Considerations**

Unresolved delinquent debt is a serious security concern because failure to "satisfy debts [or] 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). The SOR alleges that Applicant owes over \$45,458 to 14 creditors on 18 delinquent accounts. Applicant's admissions and the credit reports in the record, GE 4 and 5, establish the Government's *prima facie* case.

The following disqualifying conditions apply:

AG ¶ 19(a) inability to satisfy debts; and

AG ¶ 19(c) a history of not meeting financial obligations.

All the debts remain unresolved. Applicant experienced a decrease in income after leaving the Army. However, he has not made any steps to resolve his delinquent accounts in the eleven years since his separation. He has not provided a legitimate basis for disputing the debts he denies, or evidence of a good-faith effort to resolve those he admits. None of the financial considerations mitigating conditions apply.

Based on the record, doubts remain about Applicant's suitability for access to classified information. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Applicant failed to meet his burdens of production and persuasion to refute or mitigate the financial considerations concerns raised in the SOR.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraph 1.a – 1.r:	Against Applicant

### **Conclusion**

Based on the record, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is denied.

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Nichole L. Noel  
Administrative Judge