



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



In the matter of:)
)
) ISCR Case No. 22-00594
)
Applicant for Security Clearance)

Appearances

For Government: Rhett Petcher, Esq., Department Counsel
For Applicant: *Pro se*
10/24/2022

Decision

HEINTZELMAN, Caroline E., Administrative Judge:

Applicant did not mitigate the financial considerations security concern. He has numerous unresolved delinquent debts. National security eligibility for access to classified information is denied.

History of the Case

Applicant submitted a security clearance application (SCA) on October 7, 2019. On April 28, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) alleging security concerns under Guideline F (financial considerations). Applicant submitted responses to the SOR on May 17 and May 24, 2022, and requested a decision based upon the administrative record in lieu of a hearing (Answer).

A copy of the file of relevant material (FORM), dated June 28, 2022, was provided to Applicant by letter on the same date. Department Counsel attached as evidence to the FORM Items 1 through 7. He received the FORM on July 1, 2022, and he was afforded a period of 30 days to file objections and submit material in refutation, extenuation, or mitigation. He did not respond to the FORM. On October 3, 2021, the case was assigned to me.

Findings of Fact

Applicant is 30 years old. He has never been married and has a seven-year-old son. He received a high school diploma in November 2010. He has worked as an aircraft electrician for his current employer, a DOD contractor, since September 2019. This is his first security clearance application. (Items 3-4)

The SOR alleges that Applicant has eight delinquent debts totaling approximately \$24,193. He admitted all SOR allegations and indicated he was “working on” paying off his delinquent debts, but he did not provide details. He asked “How do I go by [sic] providing you guys with proof of me taking responsibility of me [sic] debt.” He did not provide supporting documentation in his response to the SOR, nor did he respond to the FORM. (Items 1-2)

In Applicant’s October 2019 SCA, he disclosed some of the debts alleged in the SOR. “I am financially unstable at the moment, I have been trying to pay off other bills I have fallen behind [sic], such as rent, utility bills, etc.” He indicated his debts became delinquent after he lost his job in 2017 for time-card fraud. He was also terminated from an employer in August 2019, due to insubordination. (Item 3)

In December 2017, Applicant responded to DCSA CAF interrogatories. He was asked to provide the status of each of the debts that were ultimately alleged in the SOR. He responded that he had not paid any of the delinquent debts, made payment arrangements, or was making payments, nor did he provide documentation showing the status or proof of payments for any of the alleged debts. He provided a document demonstrating that in September 2021, he resolved a delinquent debt, making payments totaling \$1,739; however, the account number for the original creditor and the collection agency do not match any of the SOR allegations. There is no evidence in the record that he has resolved or is resolving any of the debts alleged in the SOR. (Items 2-7)

Applicant’s monthly net income is \$1,525, and his monthly expenses total \$1,814. He has no savings or other assets. There is no evidence that he has sought or received financial counseling. (Items 3-7)

Policies

This case is adjudicated 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 adjudicative guidelines (AG), which became effective on June 8, 2017.

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 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 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."

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 security 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 of 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 concern under Guideline F (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

This concern is broader than the possibility that a person might knowingly compromise classified information to raise money. It encompasses concerns about a person's self-control, judgment, and other qualities essential to protecting classified information. A person who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information.

The record evidence of Applicant's delinquent debts establishes the following disqualifying conditions under AG ¶ 19:

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

AG ¶ 20 describes conditions that could mitigate security concerns. The following are potentially applicable in this case:

- (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, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), 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 or provides evidence or actions to resolve the issue.

Applicant has over \$24,000 in delinquent debt. Although he resolved one unalleged debt in September 2021, he provided no evidence of any payments or other resolution of the alleged delinquent debts. He also failed to provide any evidence that he has contacted any of creditors of the SOR debts to establish payment arrangements. Accordingly, there is no evidence that has acted responsibly to resolve his financial issues.

The eight alleged debts remain outstanding and unpaid. Therefore, Applicant's behavior continues to cast doubt on his reliability, trustworthiness, and good judgment.

