



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



In the matter of:)
)
) ISCR Case No. 22-00680
)
Applicant for Security Clearance)

Appearances

For Government: Aubrey De Angeles, Esq., Department Counsel
For Applicant: *Pro se*

03/01/2023

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 June 28, 2022, the Department of Defense Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline F, financial considerations, and explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The 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 June 30, 2022, Applicant answered the SOR, admitting all of the allegations, and requesting a decision without a hearing. On August 16, 2022, Department Counsel prepared a File of Relevant Material (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 22, 2022, and was instructed to file any objections

to this information, or to supplement the file within 30 days of receipt. He did not respond. On October 31, 2022, the case was assigned to me.

Findings of Fact

Applicant is a 34-year-old single man. He was born abroad and immigrated to the United States with his parents, as a teenager in 2001. (Item 4 at 9) He has been a naturalized citizen since 2010. (Item 4 at 9) Applicant is a U.S. Army veteran, serving honorably from 2009 to 2014. (Item 4 at 25). He currently lives with his parents. (Item 4 at 12)

After leaving the Army, Applicant spent the next three years traveling internationally. (Item 4 at 79) He was not employed. He paid for this extensive travel using credit cards and disability pay. After returning home, he enrolled in college, earning a bachelor's degree in 2020. (Item 4 at 20) He is waiting for a defense contractor to hire him, pending the outcome of this security clearance investigative process.

Applicant was unable to satisfy the credit card bills that he incurred while traveling internationally. By 2020, these bills had become delinquent in the approximate amount of \$31,000. (Item 3)

After graduating from college in 2020 Applicant began satisfying the debts. He has satisfied the debt alleged in subparagraph 1.e, totaling \$3,038. (Item 3 at 4) He contends that he has resolved 1.f, totaling \$646 and is making payments towards the resolution of 1.c, totaling \$4,750, but provided no supporting documentation. He contends that he will begin satisfying the debts alleged in subparagraph 1.a and 1.b once he satisfies the debt alleged in subparagraph 1.c. Applicant provided no evidence that he keeps a budget or that he has consulted with a financial counselor. Applicant acknowledges that borrowing money through his credit cards to travel internationally while unemployed was not responsible. (Item 4 at 79)

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 spent three years living abroad while unemployed and with limited means to support himself, consequently incurring \$31,000 of delinquent debt. Under these circumstances, AG ¶ 19(a), “inability to satisfy debts,” AG ¶ 19(c), “a history of not meeting financial obligations,” and AG ¶ 19(e), “consistent spending beyond one’s means . . . which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators,” apply.

Most of Applicant’s delinquent debts remain outstanding. Consequently, the mitigating condition set forth in 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 readily admits that his decision to travel internationally while unemployed with limited means to pay for trip expenses was not responsible. AG ¶ 20(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," is inapplicable.

There is no record evidence that Applicant has received financial counseling. AG ¶ 20(e), "the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control," is inapplicable.

Applicant has reduced his total indebtedness by approximately \$3,000 by satisfying the debt alleged in subparagraph 1.e. However, he provided no evidence supporting his contention that he has begun satisfying the other debts. Consequently, although he deserves credit for initiating a good-faith effort to satisfy his delinquent indebtedness, it remains unclear whether he is currently adhering to a plan to repay creditors. Under these circumstances, AG ¶ 20(d), "the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts," is only partially applicable. The remaining mitigating conditions are not relevant to Applicant's case.

Applicant deserves credit for acknowledging that his irresponsibility led to his financial problems. Also, he deserves credit for satisfying the debt alleged in subparagraph 1.e. Conversely, whatever progress he has made satisfying the other debts is unclear, as he provided no evidence supporting his contention that he has begun satisfying any of the other SOR debts after he satisfied the debt alleged in subparagraph 1.e. Under these circumstances, I conclude he has not mitigated the financial considerations security concerns.

Whole-Person Concept

I have considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, and they do not warrant a favorable conclusion.

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.d:	Against Applicant

Subparagraph 1.e:

For Applicant

Subparagraph 1.f:

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