



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 21-00757

Appearances

For Government:

Andre M. Gregorian, Esquire, Department Counsel

For Applicant:

Pro se

May 8, 2022

Decision

ROSS, Wilford H., Administrative Judge:

Statement of the Case

Applicant submitted her Electronic Questionnaires for Investigations Processing (e-QIP) on March 13, 2020. (Item 2.) On August 13, 2021, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued a Statement of Reasons (SOR) to her, detailing security concerns under Guideline F (Financial Considerations). (Item 1.) The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines effective within the Department of Defense after June 8, 2017.

Applicant answered the SOR in writing (Answer) on March 21, 2022, and requested her case be decided on the written record in lieu of a hearing. (Item 1.) In her Answer Applicant admitted allegations 1.a, 1.c, 1.l, 1.m, and 1.v in the SOR. She denied the remaining allegations. On July 5, 2022, Department Counsel submitted the Department's written case. A complete copy of the file of relevant material (FORM), consisting of Items 1 to 7, was provided to Applicant, who received the file on July 20, 2022.

Applicant was given 30 days from receipt of the FORM to file objections and submit material in refutation, extenuation, or mitigation. Applicant submitted a statement on August 11, 2022. Department Counsel had no objection to the additional information, and it is admitted into evidence as Applicant's Exhibit A. Items 1 through 7 are also admitted into evidence. The case was assigned to me on October 3, 2022. Based upon a review of the pleadings and exhibits, national security eligibility for access to classified information is denied.

Findings of Fact

Applicant is 45 years old, single, and has three children. She has a bachelor's degree. She has been employed by a defense contractor since July 2018 and seeks to obtain or retain national security eligibility and a security clearance in connection with her employment. (Item 2 at Sections 12, 13A, 17, and 18.)

Paragraph 1 (Guideline F, Financial Considerations)

The Government alleged in this paragraph that Applicant is ineligible for clearance because she is financially overextended and therefore potentially unreliable, untrustworthy, or at risk of having to engage in illegal acts to generate funds.

The SOR stated that Applicant has 22 debts that are past due, charged-off, or in collection, in the total amount of approximately \$27,723. The existence and amount of these debts is supported by her admissions to five SOR allegations in her Answer and by credit reports dated March 31, 2020; November 5, 2020; July 21, 2021; and July 2, 2022. They are also confirmed by Applicant's answers during an interview with an investigator from the Office of Personnel Management (OPM) held on May 8, 2020; June 16, 2020; and July 2, 2020. (Items 3, 4, 5, 6, and 7.)

Applicant stated, "The reason for the financial hardship was due to me being a single mother of 3 children and was doing the best that, with the little funds that I had. I know that people have excuses of why, and you may have heard this same spill 100 times, but I'm being very honest to say that I would not do anything to jeopardize my employment." (Applicant Exhibit A.)

The current status of the debts is as follows:

1.a. Applicant admitted owing \$1,520 for a past-due debt that has been placed in collection. The Report of Investigation (ROI) from the OPM investigator stated, "The account is not yet resolved and Subject [Applicant] is trying to resolve it by making payments and/or negotiating a payoff amount." (Item 7 at 8.) No further information was provided. This debt is not resolved.

1.b. Applicant denied owing \$1,203 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing past-due debts to this creditor in her e-QIP. (Item 2 at Section 26.) She also admitted owing this debt during her interview with an OPM investigator. (Item 7 at 4.) No further information was provided. This debt is not resolved.

1.c. Applicant admitted owing \$1,060 for a past-due debt that has been placed in collection. She admitted during the OPM interview that this debt had not been paid. (Item 7 at 5.) No further information was provided. This debt is not resolved.

1.d. Applicant denied owing \$949 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 10.) No further information was provided. This debt is not resolved.

1.e. Applicant denied owing \$949 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 10.) No further information was provided. This debt is not resolved.

1.f. Applicant denied owing \$644 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing past-due debts to this creditor in her e-QIP. (Item 2 at Section 26.) She also admitted owing this debt during her interview with an OPM investigator. The ROI further stated that Applicant wished to resolve this debt with payments. (Item 7 at 4-5.) No further information was provided. This debt is not resolved.

1.g. Applicant denied owing \$632 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 9-10.) No further information was provided. This debt is not resolved.

1.h. Applicant denied owing \$632 for a past-due medical debt. She stated in her Answer, "Never received bill." Support for this debt is found in the credit report dated

November 5, 2020. (Item 4 at 4.) No further information was provided. This debt is not resolved.

1.i. Applicant denied owing \$612 for a past-due cable debt. She stated in her Answer, "Paid in full." Support for this debt is found in the credit report dated November 5, 2020. (Item 4 at 4.) She admitted owing this debt during her interview with an OPM investigator, where she misidentified it as a medical bill. (Item 7 at 8.) No further information was provided. She provided insufficient evidence to support a finding that this debt has been paid. It is not resolved.

1.j. Applicant denied owing \$610 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 9.) No further information was provided. This debt is not resolved.

1.k. Applicant denied owing \$588 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 9.) No further information was provided. This debt is not resolved.

1.l. Applicant admitted owing \$535 for a past-due pay day loan. No information was submitted to show that this debt had been paid or otherwise settled. (Item 4 at 5; Item 7 at 4.) This debt is not resolved.

1.m. Applicant admitted owing \$478 for a past-due debt. No information was submitted to show that this debt had been paid or otherwise settled. (Item 2 at Section 26; Item 7 at 6.) This debt is not resolved.

1.n. Applicant denied owing \$465 for a past-due medical debt. She stated in her Answer, "Never received bill." Support for this debt is found in the credit report dated November 5, 2020. (Item 4 at 5.) No further information was provided. This debt is not resolved.

1.o. Applicant denied owing \$423 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 9.) No further information was provided. This debt is not resolved.

1.p. Applicant denied owing \$349 for a past-due medical debt. She stated in her Answer, "Never received bill." Support for this debt is found in the credit report dated November 5, 2020. (Item 4 at 5-6.) No further information was provided. This debt is not resolved.

1.q. Applicant denied owing \$337 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 8-9.) No further information was provided. This debt is not resolved.

1.r. Applicant denied owing \$277 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay the balance as soon as possible." (Item 7 at 8.) No further information was provided. This debt is not resolved.

1.s. Applicant denied owing \$277 for a past-due medical debt. She stated in her Answer, "Never received bill." Support for this debt is found in the credit report dated November 5, 2020. (Item 4 at 6.) No further information was provided. This debt is not resolved.

1.t. Applicant denied owing \$236 for a past-due medical debt. Support for this debt is found in the credit report dated November 5, 2020. (Item 4 at 6.) No further information was provided. This debt is not resolved.

1.u. Applicant denied owing \$149 for a past-due medical debt. She stated in her Answer, "Never received bill." She admitted owing this debt during her interview with an OPM investigator. The ROI further stated, "Subject [Applicant] will make arrangements to pay as soon as possible." (Item 7 at 8.) No further information was provided. This debt is not resolved.

1.v. Applicant admitted owing \$14,798 on a charged-off automobile loan. She stated in her Answer, "This was a voluntary repossession due to mechanical problems ongoing," (See Item 7 at 3-4.) No further information was provided. This debt is not resolved.

Applicant submitted no information concerning her current income or debts. She submitted no documentation detailing her plans for resolving her past-due indebtedness.

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines (AG) list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's national security eligibility.

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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any 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. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, "Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Paragraph 1 (Guideline F, Financial Considerations)

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

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

Applicant has incurred over \$27,000 in past-due indebtedness over the last several years. None of the debts listed in the SOR have been resolved, no matter how small. These facts establish prima facie support for the foregoing disqualifying conditions, and shift the burden to Applicant to mitigate those concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant's alleged financial difficulties:

- (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, or a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

The evidence does not establish that any of the above mitigating conditions apply to Applicant's debt situation. She states that the fact she was a single mother with three children had an effect on her finances. That fact has been considered. However, that is only one part of the equation. She did not provide any evidence showing that she is engaging in a good-faith effort to responsibly resolve any of her debts. She has known since May 2020 of the Government's concern. As also stated, she did not submit any financial information from which I can make a finding that she can avoid additional delinquencies or resolve her current delinquent debts in a reasonable, responsible, and timely fashion. Paragraph 1 is found against Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's potential for national security eligibility by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (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.

Under AG ¶ 2(c), the ultimate determination of whether to grant national security eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. Applicant has not mitigated the concerns over her considerable past-due indebtedness. The potential for pressure, exploitation, or duress remains substantial. Overall, the record evidence creates substantial doubt as to her suitability for national security eligibility and a security clearance at the present time.

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, Guideline F:

AGAINST APPLICANT

Subparagraphs 1.a through 1.v:

Against Applicant

Conclusion

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

WILFORD H. ROSS
Administrative Judge