



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



In the matter of:)	
)	
XXXXXXXXXXXXXXXXXX)	ISCR Case No. 22-00577
)	
Applicant for Security Clearance)	

Appearances

For Government: Nicole A. Smith, Esq., Department Counsel
For Applicant: *Pro se*

06/06/2023

Decision

KATAUSKAS, Philip J., Administrative Judge:

Applicant has not provided evidence sufficient to mitigate the national security concern raised by her problematic financial history. Applicant’s eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted her security clearance application (SCA) on September 29, 2021. The Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) on April 5, 2022, detailing security concerns under Guideline F, financial considerations. The DOD CAF acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry 1960*), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and Security Executive Agent Directive 4, *National Security Adjudicative Guidelines*, effective within the DOD as of June 8, 2017.

Applicant submitted an answer (Answer) to the SOR on June 6, 2022 and elected a decision on the written record by an administrative judge of the Defense Office of Hearings and Appeals (DOHA). On August 4, 2022, Department Counsel submitted the

Government's file of relevant material (FORM), including documents identified as Items 1 through 5. DOHA sent the FORM to Applicant on August 8, 2022, who received it on September 12, 2022. She was afforded 30 days after receiving the FORM to file objections and submit material in refutation, extenuation, or mitigation. Applicant did not respond to the FORM. The SOR and the Answer (Items 1 and 2, respectively) are the pleadings in the case. Items 3 through 5 are admitted without objection. The case was assigned to me on January 11, 2023.

Findings of Fact

After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact:

Applicant is 52 years old, married, with two adult children. She earned her associate degree in August 2019. Since June 2017, she has worked full time for a defense contractor. In May 2019, she was approved for a security clearance. (Item 3.)

The SOR alleged eleven delinquent consumer accounts totaling \$30,621. (Item 1.) Applicant admitted the allegations and in some cases disputed the amount alleged. She produced no documents in support of her answers. (Item 2.) The record supports the Government's allegations, and she confirmed these delinquencies in her December 8, 2021 Personal Subject Interview (PSI). The delinquent accounts went into collections between 2017 and 2019. (Items 4 and 5.)

In her PSI, Applicant explained that in 2016 and 2017, her nephews needed to come and live with her and her husband. To accommodate the new family members, they had to move to a larger home. The extra expenses associated with her nephews lead to her debts. She was spending more money than she was making. She was trying to provide for her family with no other options. She is having conversations with creditors to take care of her debts. She now lives with her daughter to save more money. She spends less now, and she is working on paying all her debts on time. (Item 4.)

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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, then 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 in seeking a favorable security decision.

Guideline F, Financial Considerations

The security concern relating to Guideline F for 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 an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes conditions that could raise security concerns under AG ¶ 19. The following conditions are applicable in this case:

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

The SOR debts are established by Applicant's admissions and the Government's credit report. AG ¶¶ 19(a) and 19(c) apply.

Guideline F also includes conditions that could mitigate security concerns arising from financial difficulties. Having reviewed all of the mitigating condition under AG ¶ 20, I find only the following potentially applicable:

- (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; and
- (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.

I have considered condition AG ¶ 20(a). Applicant's SOR debts went into collections between 2017 and 2019. That is not that long ago. The debts are numerous and remain in default today. Her debts are not mitigated under AG ¶ 20(a).

I have considered AG ¶ 20(b). The record shows that Applicant's financial travails were caused by the need for her nephews to come and live with her and her husband. Applicant, therefore, moved to a larger home to accommodate her nephews. That move and related costs increased her expenses and caused the delinquent debts she now confronts. To ameliorate her financial troubles, she moved in with her adult daughter. Although she claims she is now working with her creditors to resolve her debts, she has not provided any documents to support this assertion. The Appeals Board has routinely expected applicants to submit documents supporting their explanations and that their indebtedness is being addressed concretely and is on the way to being resolved. See, e.g., ISCR Case No. 20-00615 at 2 (Jun. 7, 2021). On this record, I cannot find that AG ¶ 20(b) applies.

The Whole-Person Concept

The ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and its factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

Applicant leaves me with questions about her eligibility and suitability for a security clearance. For these reasons, I conclude that Applicant has not mitigated the security concerns arising under Guideline F, financial considerations.

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. – k:

Against Applicant

Conclusion

In light of all of the circumstances presented, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Philip J. Katauskas
Administrative Judge