



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



In the matter of:

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ISCR Case No. 22-00576

Applicant for Security Clearance

**Appearances**

For Government: Daniel O’Reilley, Esq., Department Counsel  
For Applicant: *Pro se*

12/22/2023

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**Decision**

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HOGAN, Erin C., Administrative Judge:

Applicant mitigated the security concerns raised under financial considerations. Her request for a security clearance is granted.

**Statement of the Case**

On May 17, 2022, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing the security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order (EO) 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 (AG) implemented within the Department of Defense on June 8, 2017.

On May 23, 2022, Applicant timely responded to the SOR (Answer) and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was assigned to me on July 14, 2023. On August 14, 2023, a Notice of Hearing was issued scheduling the hearing for September 7, 2023. The hearing was held on that date. Department Counsel proffered Government Exhibits (GE) 1 – 5, which were admitted without objection. Additionally, a copy of a discovery letter dated October 27, 2022, was included in the record as Hearing Exhibit (HE) I. Applicant testified and offered three exhibits which were admitted as Applicant Exhibits (AE) A – C without objection. The transcript of the hearing (Tr.) was received on September 18, 2023. The record closed on that date.

### **Findings of Fact**

Under Guideline F, the Government alleged that Applicant owed an approximate total of \$28,000 for eight delinquent accounts (SOR 1.a – 1.h). In her Answer, Applicant admitted all of the SOR allegations. In addition to the facts established by Applicant's admissions, I make the following findings of relevant fact.

Applicant is 34 years old and is being sponsored for a security clearance by a defense contractor. She has worked for them for two years. She has over nine years work experience in the same career field. This is her first time applying for a security clearance. She is a single mother of three teenage children, ages 16, 15, and 14. (GE 1; Tr. 20-21)

Applicant completed an electronic questionnaires for investigations processing (e-QIP) on September 16, 2018. A subsequent background investigation revealed the following delinquent accounts: a \$9,459 collection debt owed as a result of an automobile repossessed in 2019 (SOR ¶ 1.a: GE 3 at 2; GE 4 at 3; Tr. 35); a \$8,595 collection debt as a result of an automobile repossessed in 2017 (SOR ¶ 1.b: GE 3 at 2; GE 4 at 3; Tr. 39-41); a \$1,105 charged-off account owed to a credit union (SOR ¶ 1.c: GE 3 at 2; GE 4 at 4); a \$1,029 delinquent credit card account that was placed for collection (SOR ¶ 1.d: GE 3 at 2; GE 4 at 5); a \$760 credit card account that was placed for collection (SOR ¶ 1.e: GE 3 at 2; GE 4 at 5); a \$140 charged-off account (SOR ¶ 1.f: GE 3 at 2); a \$1,471 charged-off account (SOR ¶ 1.g: GE 4 at 4); and a \$5,698 account that was placed for collection. (SOR ¶ 1.h: GE 4 at 4)

Applicant's former boyfriend and the father of her children, was an abusive alcoholic. The abuse increased during the COVID-19 pandemic. In February 2021, she moved out of the apartment with her children. Before she decided to move out, there were three domestic violence incidents initiated by her former partner that made her realize she needed to move out for the sake of the children. She initially moved in with her parents who live in a one-bedroom apartment. She paid her parents \$1,000 a month rent when she and children lived with them. She rented a place for her and the children to live a few months later. The monthly rent was \$1,632. (Tr. 19, 22-25)

Applicant is the sole provider of her three children. The children's father does not provide child support, although Applicant recently filed for child support about a week before the hearing. She realized the only way to get money from him would be through a child support order because his paycheck could be garnished. (Tr. 26-27)

Applicant intends to pay her debts. She does not live an expensive lifestyle and does not spend money on gambling. She needs time to resolve her debts. (Tr. 19-20)

The \$9,459 debt alleged in SOR ¶ 1.a was the debt remaining after one of Applicant's cars was repossessed in 2019. The debt was paid off through garnishment. Her paycheck was garnished between \$700 to \$900 a period beginning in May 2022. She testified the garnishment stopped a few months ago. (Tr. 35-38; AE B) She was unable to pay any of the remaining SOR debts. (Tr. 39-46) She pays her current debts and her rent. Most of the debts alleged in the SOR occurred as result of her relationship with her abusive boyfriend. When she lived with him, he was not working on a regular basis. His mother and occasionally his sister lived with them. Neither worked. Applicant was the only breadwinner in the household. She would often give her boyfriend \$100 a day to buy alcohol so he would not bother her. (Tr. 48-50)

Applicant has been on her own for about two years. A few months ago, Applicant's father suffered a heart attack. She had to pay his mortgage while he recovered from his illness. This prevented her from making more payments towards her delinquent accounts. Applicant currently does not own a car. She takes an Uber to work because her day begins earlier than when public transportation is available. She takes public transportation home. Despite all of these challenges, she believes she is in a better financial situation on her own. She is current on federal and state income taxes. (Tr. 54 – 59)

Applicant currently earns \$31 per hour. She also works overtime hours. Her net paycheck is \$2,600 a pay period. She is paid twice a month, so she earns \$5,200 monthly. Her monthly expenses include: rent \$2,000; and utilities \$150 - \$200. She estimates she has a couple hundred dollars left over each month after expenses. (Tr. 29)

### **Whole-Person Evidence**

Mr. R., Applicant's superior, states Applicant is an asset to their team. She has completed all the necessary briefings regarding safeguarding sensitive information. (AE A) Mr. T. has known Applicant for several years. He has observed her duty performance. She is dedicated to her job and is very professional. She performs her duties in an excellent manner. He has worked at a high-level state commission and currently works at a high-level at the federal level. He believes Applicant is worthy of maintaining her security clearance. She possesses "the analytical ability, judgment, discretion, personal integrity, and represents the organization in a positive light." (AE C)

## Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). (See Directive, 6.3) Decisions must also reflect consideration of the factors listed in ¶ 2(d) of the guidelines. Commonly referred to as the “whole-person” concept, those factors are:

- (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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest for an applicant to either receive or continue to have access to classified information. (See *Department of the Navy v. Egan*, 484 U.S. 518)

The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a “right” to a security clearance, an applicant bears a heavy burden of persuasion. (See *Egan*, 484 U.S. at 528, 531) A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government. (See *Egan*; AG ¶ 2(b))

## Analysis

### Financial Considerations

The Government met its burden of producing sufficient, reliable information to support all of the SOR allegations that Applicant accrued significant past due or delinquent debt that, with one exception, is still outstanding. This information reasonably raises a security concern about Applicant's finances that is articulated at 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

More specifically, available information requires application of the following AG ¶ 19 disqualifying conditions:

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

Available information also requires consideration of the following pertinent AG ¶ 20 mitigating conditions:

- (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;
- (c) 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 under control: and

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

AG ¶ 20(a) applies because most of Applicant's debts arose during and shortly after the breakup of her relationship with an abusive alcoholic. She is in the process of putting her life back together. She lives simply and her main focus is raising her three children. While she still needs to resolve the delinquent debts, the debts do not cast doubt on her reliability, trustworthiness and judgment.

AG ¶ 20(b) applies because the debts incurred by Applicant were caused by circumstances beyond her control. Applicant is doing what she can to resolve her financial situation. She has not incurred significant new debts. She just has a lot of delinquent debt incurred from a disastrous, abusive relationship.

AG ¶ 20(c) does not apply. Applicant did not attend financial counseling from a legitimate and credible source, such as a non-profit credit counseling service. Applicant still has many debts to resolve. It would be helpful to obtain credit counseling so she can learn steps to deal with her delinquent accounts and to develop a plan to avoid getting into additional financial trouble.

AG ¶ 20(d) applies with respect to the debt alleged in SOR ¶ 1.a. Although the debt was garnished, Applicant resolved the account.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance 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(a):

(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 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 Applicant's favorable character references and her years of favorable employment. I considered that she is a devoted mother to her three children and that she occasionally supports her parents when needed. Most of all, I considered that her partner and the father of her children was an abusive alcoholic. In February 2021, she was brave enough to leave him. He provides no support and left her with a lot of debt for her to resolve on her own. Applicant is doing the best she can. The anticipated court order will enable her to receive additional resources to raise her kids. Based on the facts of this case, I do not consider her a security risk. It takes a long time to recover from the end of a relationship. Applicant's financial situation will likely improve in the future. It is recommended that she seek financial counseling from a non-profit credit counseling service so she get a better assessment of her financial situation. Security concerns under Financial Considerations are mitigated. Applicant is warned that if she continues to acquire new delinquent debts, she may lose her security clearance at some point in the future.

### **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:	FOR APPLICANT
Subparagraphs 1.a - 1.h:	For Applicant

### **Conclusion**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national security interests of the United States to grant or continue Applicant's eligibility for a security clearance. Clearance is granted.

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ERIN C. HOGAN  
Administrative Judge