



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 22-01058
)
Applicant for Security Clearance)

Appearances

For Government: Nicholas Temple, Esq., Department Counsel
For Applicant: Shirin Asgari, Esq. and Catie Young, Esq.

01/22/2024

Decision

TUIDER, Robert, Administrative Judge:

Applicant submitted a Questionnaire for National Security Positions (SF-86) on January 22, 2020. On July 6, 2022, after reviewing the application and information gathered during a background investigation, the Defense Counterintelligence and Security Agency Consolidated Adjudications Services, Fort Meade, Maryland, sent Applicant a statement of reasons (SOR), explaining it was unable to find that it was clearly consistent with the national interest to grant him eligibility for access to classified information.

This national security eligibility action was taken under Executive Order 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 Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), which became effective within the DoD on June 8, 2017.

The SOR detailed the factual reasons for the action under the security guideline known as Guideline F for financial considerations. Applicant timely answered the SOR and requested a hearing. The case was assigned to me on December 13, 2022. The hearing was held on May 23, 2023, by use of Microsoft TEAMS video teleconference. The record was held open until July 28, 2023, to afford the Applicant an opportunity to submit additional post-hearing evidence. After reviewing the transcript and evidence, I proposed to the parties that this case was appropriate for a summary disposition in Applicant's favor. Both parties had ten days to consider the matter and to provide written notice of their objections. Neither party objected.

In summary, this case centers on significant debt that Applicant and his wife incurred after they became the adoptive parents of their young niece and nephew after State A removed them from a mentally and physically abusive environment and placed them in foster care. Applicant and his wife willingly accepted the responsibility of raising these children and were granted complete custody in April 2015.

At the time Applicant and his wife were approached by State A to become the adoptive parents of these children, Applicant was and remains employed as a senior SharePoint Specialist at an overseas military installation. The significant debt Applicant and his wife incurred included, but was not limited to, hefty legal costs, international travel, preparing their home for a home study, cribs, clothing, diapers, food, costs of moving to a larger home, and uncovered medical expenses. And when the children became of school age, Applicant was required to pay \$24,000 a year per child for their education at their local DoD school.

Applicant has made a determined and measured effort to pay off his SOR debts. He enrolled in a debt consolidation program and sought financial counseling. He produced mitigating evidence during his hearing and post-hearing demonstrating that he has paid, settled, or otherwise resolved all of his SOR debts. In furtherance of his commitment to regain financial responsibility, Applicant continued to pay off his two remaining debts post-hearing immediately after having open heart surgery.

Applicant has worked for his defense contractor employer since 2020 and holds a Top Secret clearance. He has successfully held a clearance for 22 years and has an excellent work record. He submitted a budget that reflects that he leads a modest lifestyle and lives within his means.

Based on the record evidence as a whole, I conclude that Department Counsel presented sufficient evidence to establish the facts alleged in the SOR under Guideline F. I also conclude that Applicant presented sufficient evidence to explain, extenuate, or mitigate the facts admitted by Applicant or proven by Department Counsel. In particular, I conclude that the security concerns are resolved under the following mitigating conditions: AG ¶¶ 20(a), 20(b), 20(c), and 20(d).

The concerns over Applicant's history of financial problems do not create doubt about his current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole

and considered whether the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also gave due consideration to the whole-person concept. Accordingly, I conclude that he met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant him eligibility for access to classified information. This case is decided for Applicant.

ROBERT TUIDER
Administrative Judge