



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



In the matter of: )  
)  
) ISCR Case No. 22-02221  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brittany C.M. White, Esq., Department Counsel  
For Applicant: *Pro se*

02/01/2024

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**Decision**

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NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance. Applicant failed to provide sufficient evidence to mitigate the security concerns raised by his unresolved delinquent debt. Clearance is denied.

**Statement of the Case**

On June 30, 2023, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the financial considerations guideline. This action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended, as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated 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*, implemented on June 8, 2017. DOD adjudicators were unable to find that it is clearly consistent with the national interest to grant Applicant’s security clearance.

Applicant answered the SOR and requested a decision without a hearing. The Government submitted its written case on September 26, 2023. The Government provided Applicant a complete copy of the file of relevant material (FORM) and the Directive. In the FORM, the Government informed Applicant that it was offering as evidence two subject interviews conducted in December 2019 by a background investigator. The Government advised Applicant of his ability to object to, correct, add, delete, or update the information contained in the two interview summaries. The Government further advised him that failure to respond could result in a determination by the administrative judge that he waived any objection to the admissibility of the two interview summaries.

He acknowledged receipt of the FORM and attached documents on October 12, 2023. He provided a response that consisted of one handwritten document reporting the birth of his two children. He also submitted a copy of the nine documents appended to the FORM. He did not make any revisions to the subject interviews. Accordingly, the attachments to the FORM are admitted to the record as Government's Exhibits (GE) 1 through 9 without objection from either party.

### **Evidentiary Issue**

Government's Exhibit 9 contains the two subject interview summaries. The December 17, 2019 subject interview reports that Applicant provide payment receipts for two accounts, with the same creditors as alleged in SOR ¶¶ 1.c and 1.d. However, the receipts were not included as part of the exhibit. At my request, Department Counsel verified that the receipts were included in the investigative file and provided a copy to Applicant and me on January 18, 2023. I gave Applicant until January 29, 2024, to lodge any objection to the documents. He did not respond. Accordingly, the documents are admitted to the record as GE 10. The email correspondence is appended to the record as Appellate Exhibit I.

### **Findings of Fact**

Applicant, 29, has worked for his current employer, a federal contracting company, as a laborer since February 2019. He completed a security clearance application, his first, in October 2019. He disclosed five delinquent accounts totaling \$15,783. The ensuing investigation revealed four additional delinquent accounts. The SOR alleges that he owes \$30,638 on nine delinquent accounts. (GE 1,3, 5-9)

Applicant discussed the origins of his financial problems in his first subject interview on December 9, 2019. He explained that he incurred the debts financing a move from State 1 to State 2 with his girlfriend when she began attending school in State 2 in 2016. He accumulated the debts alleged in SOR ¶¶ 1.f (\$1,230) 1.g (\$2,413), and 1.h (\$1,727) to pay for the airfare required for the move as well items needed to set up a new residence. In 2017, he took out a personal loan as alleged in SOR ¶ 1.b (\$3,570) to finance a vacation. (GE 9)

After the move, he became the sole source of income for himself and his girlfriend because she was a full-time student. He did not earn enough to pay their living expenses and repay the debt he incurred. He claimed to have resolved two debts with the same creditor identified in SOR ¶¶ 1.c and 1.d. On December 17, 2019, he provided the investigator with receipt for two paid accounts. Because the account numbers reported on the receipts do not match the account numbers in the credit reports in evidence, it is unclear if the debts are duplicate accounts. He also told the investigator that he resolved SOR ¶ 1.i, but he could not provide any corroborating documentation. (GE 5,9)

In response to DOD interrogatories about the status of his delinquent debts, Applicant indicated that he had payment arrangements in place for the debts alleged in SOR ¶¶ 1.a, 1.b, 1.c, 1.f, 1.g, and 1.i. However, he did not provide any details of the payment arrangements and he did not provide any receipts of payment. The credit reports in the record do not show decreases in balances that would be consistent with payment plans for SOR ¶¶ 1.a, 1.b, 1.f, and 1.g. The debts alleged in SOR ¶¶ 1.c, 1.d, and 1.i do not appear on the August 2023 credit report, which is the most recent report in the record. (GE 4-9)

In his answer to the SOR, Applicant reported that he was going to work on the debts through a “credit mentor.” He did not offer any details of the mentorship arrangement or details of a plan to resolve his delinquent accounts. (GE 2)

### **Policies**

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines 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. According to AG ¶ 2(c), 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 ¶ 2(b) 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.

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 the applicant or proven by Department Counsel.” The

applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

### **Analysis**

Unresolved delinquent debt is a serious security concern because failure to “satisfy debts [or] 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). The SOR alleges that Applicant is indebted to nine creditors for \$30,638. The record establishes the Government’s *prima facie* case that the following financial considerations disqualifying conditions apply.

AG ¶ 19(a) inability to satisfy debts; and,

AG ¶ 19(c) a history of not meeting financial obligations.

None of the mitigation conditions apply. Applicant did not provide sufficient evidence of his efforts to resolve his delinquent accounts, to include a history of debt repayment or evidence of the financial mentorship he has claimed to receive.

Based on the record, doubts remain about Applicant’s current security worthiness. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d). Security clearance adjudications are not debt-collection proceedings. The AGs do not require an applicant to immediately resolve or pay each and every debt alleged in the SOR, to be debt free, or to resolve first the debts alleged in the SOR. An applicant needs only to establish a plan to resolve financial problems and take significant actions to implement the plan. He has not done so, therefore failing to meet his burdens of production and persuasion to mitigate the security concerns raised by his history of delinquent debt.

### **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, Financial Considerations:	AGAINST APPLICANT
Subparagraph 1.a – 1.g:	Against Applicant

## **Conclusion**

Based on the record, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. National security eligibility for access to classified information is denied.

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Nichole L. Noel  
Administrative Judge