



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



In the matter of: )  
)  
) ISCR Case No. 23-01240  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Tara R. Karoian, Esq., Department Counsel  
For Applicant: *Pro se*

02/20/2024

**Decision**

Dorsey, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On July 26, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on August 13, 2023, and requested a decision based on the written record in lieu of a hearing.

The Government submitted its written case on October 16, 2023. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was advised that he had 30 days from his date of receipt to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on October 20, 2023, but he did not respond to it. The case was assigned to me on January 30, 2024. The Government exhibits included in the FORM, marked as Items 1-6, are admitted in evidence without objection.

## Findings of Fact

Applicant is a 63-year-old employee of a government contractor for whom he has worked since June 2020. He has been employed part-time with another employer since 2013. He lost full-time employment from December 2019 until March 2020, when he was reliant on his part-time employment. He earned a high school diploma in 1977. He has been married and divorced twice (1980-1982 and 1986-1987). He remarried in 1988 and has three adult children. (Items 3, 4)

The SOR alleges Applicant owes 10 delinquent accounts totaling about \$22,000 (SOR ¶¶ 1.a-1.j). These delinquencies consist of credit cards (SOR ¶¶ 1.c, 1.d, 1.e, 1.f, 1.h, and 1.i.), medical accounts (SOR ¶¶ 1.g and 1.j), a personal loan (SOR ¶ 1.b), and an account of an unknown type (SOR ¶ 1.a). In his response to the SOR, he admitted all of the SOR debts without comment. His admissions are incorporated into the findings of fact. The SOR allegations are established by his admissions and the Government's 2022 and 2023 credit reports. (Items 4-6)

Applicant became delinquent on these accounts between 2015 and 2019. The last payment he made on these accounts was in about 2020. Applicant fell behind on his debts because his wife was diagnosed with cancer in 2015. He also had heart surgery in 2016, and he has diabetes, which requires costly medications. The burden of paying for his and his wife's medical expenses, despite having health insurance, caused him to miss required payments on the SOR debts. He also lost a job in December 2019, that added to his financial difficulties. (Items 4-6)

Beginning in October 2018, Applicant and his wife hired a debt consolidation company to help them settle their delinquent accounts. He claimed that he made \$570 monthly payments to this company to pay off his creditors, but he stopped making payments in about March 2020 because he was laid off from one of his jobs. (Item 4)

In January 2023, Applicant estimated that his budget reflected a deficit of about \$545 every month. His daughters will occasionally help him and his wife with some of their expenses. He claimed that he would try to resolve his delinquent debts if he could, but he cannot afford to do so. He reported that he does not have enough money to file bankruptcy, and he is mainly focused on paying for his wife's ongoing medical expenses. Despite having several opportunities to do so, he provided no documents to corroborate his debt resolution efforts or the current balances of the SOR debts. (Items 4-6)

## Policies

This case is adjudicated under Executive Order (EO) 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 adjudicative guidelines (AG), which became effective within DOD on June 8, 2017.

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

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 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."

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 security 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 access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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**

### **Guideline F, Financial Considerations**

The security concern 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.

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

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

Applicant has 10 delinquent debts that have been delinquent for years. The above disqualifying conditions are raised.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are 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;
- (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 is under control; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

Applicant's financial delinquencies are ongoing and therefore recent. The evidence does not provide clear indications that the debts are being resolved or are under control. Moreover, he has a monthly budget deficit. I cannot find his financial delinquencies are unlikely to recur. AG ¶ 20(a) and AG ¶ 20(c) do not apply.

Applicant's delinquencies were caused by his and his wife's serious medical issues, as well as unemployment and underemployment. These causes were beyond his control. However, he must also show that he acted responsibly under the circumstances with respect to these debts. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). He failed to provide documentary evidence that he meaningfully addressed any of the SOR debts. At best, without documentary corroboration, he claimed that he attempted to pay down these debts through a debt consolidation company, but he stopped doing that about four years ago because he could not afford the payments. He therefore did not provide sufficient evidence that he acted responsibly under the circumstances or made a good-faith effort to repay overdue creditors or otherwise resolve debts. AG ¶ 20(b) and AG ¶ 20(d) do not apply.

### **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(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 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 the facts and circumstances surrounding this case. I have incorporated my comments under Guideline F in my whole-person analysis. While I am sympathetic to Applicant and his wife for their serious health problems and the lack of affordable healthcare options, he has not provided sufficient evidence that he has meaningfully addressed his years-old delinquent debts, or that he has a viable plan to do so.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations security concern.

### **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-1.j:

Against Applicant

**Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

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Benjamin R. Dorsey  
Administrative Judge