



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-01371
	)	
Applicant for Security Clearance	)	

**Appearances**

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

05/03/2024

**Decision**

BLAZEWICK, Robert B., Chief Administrative Judge:

Applicant mitigated the personal conduct security issues but failed to mitigate the financial considerations. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 22, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations) and Guideline E (personal conduct). The action was taken 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) effective within the DOD on June 8, 2017.

Applicant answered the SOR on November 28, 2022, and elected to have his case decided on the written record in lieu of a hearing. Department Counsel submitted the Government’s file of relevant material (FORM), and Applicant received it on February 24, 2023. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns within 30 days of receipt of the FORM. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to his case. His response was due on March 27, 2023.

He did not respond, comment, or object. The Government exhibits included in the FORM are Items 1 – 13. FORM Items 1 and 2 contain the pleadings in the case, the SOR, and the Applicant's Answer. Items 3 - 13 were offered by the Government as substantive evidence and are admitted without objection.

### **Findings of Fact**

Applicant admitted all of the SOR allegations with explanations. His admissions are included in the finding of fact. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 37 years old. He has been employed full time as a mechanic since about August 2019. He is currently employed overseas. He has held his current security clearance since approximately 2014. He earned his bachelor's degree in 2019. He is divorced with two minor children; ages 11 and 13. He served in the military from 2005 until 2016 when he was honorably discharged. (Items 3, 10, & 13)

The SOR alleges fourteen debts totaling \$209,594. The debts are listed on one or more credit bureau reports (CBR) from November 2014 (Item 11), September 2019 (Item 4), May 2021 (Item 5), June 2022 (Item 7), and September 2022 (Item 9) as well as in Applicant's response to the DoD Consolidated Adjudications Facility's (DoD CAF) interrogatories of May 2022 (Item 6).

Applicant completed a security clearance application (SCA) in August 2019. Section 26 (Financial Record), asked if in the past seven years he had defaulted on a loan, bills turned over to a collection agency, accounts charged off, suspended or canceled for failing to pay as agreed, if he had been over 120 days delinquent on any type of debt not previously disclosed, or if he was currently 120 days delinquent on any debt. He responded "no." In Section 18 (Relatives), he marked the blocks for Mother and Father only. He did not list his two children. Applicant completed a prior SCA in October 2014 in which his answers to Sections 18 and 26 were the same as in his August 2019 SCA. He stated he would not knowingly say he did not have children when he does, and that he has been paying child support for both. (Items 3, 10)

In June 2020, Applicant was interviewed by a government investigator in an enhanced subject interview (ESI). He volunteered that he had failed to list his two children and three half-siblings in both his October 2014 and August 2019 e-QIPs. He volunteered to the investigator that he had failed to disclose that he had multiple accounts (four or five credit cards and three personal loans) that were delinquent and in collection. During his interview, he specifically addressed the debts in SOR ¶¶ 1.a & 1.n and stated he had additional debts in collection. He did not disclose these debts on the SCA. (Items 3, 13)

SOR ¶ 1.a – Child support arrears of \$119,000. Applicant admitted this debt in his answer to the SOR. During his ESI, he admitted that he was in arrears on his child support, He estimated he owed approximately \$82,000. Though unsure if his divorce was in 2014 or 2016, he stated he had been ordered to pay child support beginning in 2014 of \$1,980 a month. He stated he had put in multiple requests for modification with the City Child Support Services over the years, but they have never answered his requests. Upon

discharge from the military in July 2016, his income was reduced significantly. While on active duty, he made the full child support payments. After he was honorably discharged, he had only his monthly VA disability payment of \$1,130 per month and unemployment insurance. He stated \$500 a month was garnished from his unemployment insurance to pay the child support until he was hired in June 2018. The garnishment continued when he started his current position in July 2019. He stated his current pay was being garnished in the amount of about \$1,500 per month. This debt is not resolved. (Items 6 & 13)

Applicant was specifically confronted by the investigator with the debts in SOR ¶¶ 1.b – 1.j, 1.l, and 1.m. He admitted he recognized the account numbers in the debts in SOR ¶¶ 1.b – 1.i and that they were his debts. He stated he had forgotten about the debt in SOR ¶ 1.g. but confirmed it was his and that he intended to contact the creditor to work out a payment plan. Applicant initially stated he disputed the debts in SOR ¶¶ 1.j, 1.l, and 1.m, as he thought he had paid them, or did not owe anything. Later during the ESI, he stated he did not wish to dispute them. Applicant acknowledged the debts in SOR ¶¶ 1.b – 1.j, 1.l, and 1.m in his answer to the DoD CAF interrogatories of May 27, 2022. He stated he would make a plan to pay them. (Items 6 & 13)

SOR ¶ 1.n – credit card debt in collection for \$10,949. Applicant admitted this debt in his answer to the SOR. During his ESI, he specifically addressed this debt but did not know the exact amount. He stated it was for a personal loan. (Item 13)

On August 18, 2022, Applicant filed for Chapter 7 Bankruptcy. His debts were discharged on November 15, 2022. In his answer to the SOR, he stated the debts alleged in the SOR ¶¶ 1.b – 1.n (all except the child support arrears) were included in his bankruptcy filing and most were confirmed with his bankruptcy documents but not all. Applicant's June and September 2022 CBRs do not show these debts. As his Chapter 7 filing is extensive, I find all of his debts were likely were included in the \$174,000 that was successfully discharged. Though this action resolves the debts in SOR ¶¶ 1.b – 1.n, they were not due to his own good faith efforts. (SOR Answer, Items 7, 8, & 9)

SOR ¶ 1.o – Pending Chapter 7 Bankruptcy action. This allegation has been resolved. The Bankruptcy action is closed and the debts were discharged on November 15, 2022. (Item 8)

Applicant also admits he failed to disclose his half-siblings, but this is not alleged in the SOR. Applicant volunteered this information when he met with the Government investigator for his June 2020 ESI. In his answer to the SOR, he states neither of these omissions were intentional. He further states he knows a credit report is part of the process, know he had some debts in collection and, therefore, would not have concealed it. He stated he mistakenly answered “no” when he should have answered “yes.” (SOR Answer, Items 3 & 10)

Applicant's November 2014 CBR indicates he had three debts in collection. It is unclear how those debts were resolved, though this credit report is by now almost 10 years old, it does show a history of failure to handle debts. In addition, his September 2022 CBR indicates a debt to GM Financial for \$26,885 that was charged-off. The account

was opened February 10, 2019, with the first major delinquency in February 2020. This debt was not alleged in the SOR. (Items 9 & 11)

During his ESI, Applicant states his financial problems were the result of his divorce, the large child support payments ordered, his being discharged from active duty and difficulty finding a job. (Items 12 & 13)

While there is no evidence of financial counseling, Applicant did hire an attorney to handle his Chapter 7 Bankruptcy filing. For his bankruptcy and in response to the DoD CAF's interrogatories, he provided budget worksheets. He calculated in his response to the interrogatories that he had a monthly remainder of \$812. In his Chapter 7 filing, his net monthly income was calculated as negative \$145. (Items 6 & 8)

### **Policies**

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**

I have not considered any derogatory information that was not alleged in the SOR for disqualifying purposes. I may consider it in the application of mitigating conditions and in my whole-person 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 a history of financial problems, including numerous delinquent debts. Most of these debts continued without attempted resolution for several years. Applicant filed Chapter 7 Bankruptcy in August 2022, after his ESI but prior to the SOR being issued. The evidence is sufficient to raise the above disqualifying conditions.

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;

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

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

None of the mitigating conditions in AG ¶ 20 wholly apply. While Applicant's successful Chapter 7 Bankruptcy case has resolved a significant amount of debt, his child support arrearages could not be discharged and will only increase. Though his children will eventually age-out, that is at least five years away for the oldest child and does not extinguish the arrearages. This debt is large, growing, and not dischargeable in bankruptcy. Applicant already had debts in collection in November 2014 and accrued additional debt within the year prior to filing for bankruptcy. At least one of these more recent debts was charged off. Though not alleged and, therefore, not disqualifying, it demonstrates the behavior was recent, may recur, and casts doubt on his good judgement and reliability.

AG ¶ 20(b) partially applies in that the initial conditions that resulted in the financial problem appear to have largely been beyond Applicant's control (divorce, large child support payments, and unemployment). But AG ¶ 20(b) is a two-part test and the second part requires the individual to have acted responsibly under the circumstances. The record does not demonstrate he did so. There is no evidence he had made any effort to repay or otherwise resolve these debts prior to filing for Chapter 7 Bankruptcy. He filed approximately two months after answering the DoD CAF's interrogatories regarding these debts. Applicant admitted in his ESI he had forgotten about some of his debts. In addition, he accrued new debt in the time-frame between Applicant's ESI and his answer to the CAF interrogatories which was also discharged in his Chapter 7 Bankruptcy. A discharge in bankruptcy (particularly Chapter 7) resolves those debts but is not evidence of a track record of steady payments towards the debts, which would show good faith.

Because Applicant requested a determination on the record without a hearing, I had no opportunity to question him about the specifics of his actions and whether he made any additional effort to resolve his delinquent debts or evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

The allegation in SOR ¶ 1.o, that Applicant had filed an unresolved Chapter 7 Bankruptcy action, is mitigated as the Chapter 7 Bankruptcy is complete and his debts have been discharged.

## Guideline E, Personal Conduct

AG ¶ 15 expresses the personal conduct security concern:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. Conditions that could raise a security concern and may be disqualifying include:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national.

Applicant admitted that he failed to mark that he had two children in Section 18 on his October 2014 and August 2019 SCAs. He also admitted he answered "no" to the Section 26 questions regarding delinquencies involving routine accounts. I find Applicant's answer that he mistakenly failed to list his children in Section 18 of the SCA credible. In light of all the circumstances, the evidence is insufficient to establish that the omission of his children was deliberate. Therefore, I find that no disqualifying condition under AG ¶¶ 16(a) applies to the allegation in SOR ¶ 2.a.

Applicant also admitted he marked "no" when he should have marked "yes" to Section 26 regarding delinquency involving routine accounts. While he states this was also oversight, the amount of debt he was facing plus the specificity and detail of the questions in Section 26 make this less likely. AG ¶¶ 16(a) applies to the allegation in SOR ¶ 2.b.

With regard to the allegation in SOR ¶ 2.b, I have also considered all of the mitigating conditions for personal conduct under AG ¶ 17 and considered the following relevant: (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.

Applicant volunteered to the Government investigator during his June 2020 ESI both that he had two children he had failed to list and that he had delinquent debts he had failed to disclose in his August 2018 SCA. In his answer to the SOR, he stated he mistakenly answered incorrectly and did not intend to falsify, deceive, or omit these facts. He stated he would "not knowingly say I do not have kids when I do and have been paying child support on them during the last two questionnaires. Regarding Section 26 he stated that he knew the investigation would include a credit check so he had no reason to answer "no" and that he had just "defaulted." His ESI was his first opportunity to correct his omission. He volunteered the correct facts before being confronted with them. I find that

Applicant made a prompt, good-faith effort to correct the omission and, therefore, AG ¶ 17(a) applies and SOR ¶ 2.b is mitigated.

Applicant requested a determination on the record without a hearing, I had no opportunity to question him about his efforts to repay his delinquent debts, or about any plan to get his child support adjusted, or evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

### **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 and Guideline E in my whole-person analysis.

Applicant failed to meet his burden of persuasion regarding the financial considerations. Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the security concerns under Guideline E (personal conduct) but failed to mitigate the security concerns 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
Subparagraph 1.a-n:	Against Applicant
Subparagraphs 1.o:	For Applicant



Paragraph 1, Guideline E:

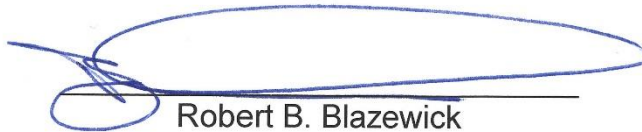
FOR APPLICANT

Subparagraphs 1.a-1.b:

For Applicant

**Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

A handwritten signature in blue ink, consisting of a large, sweeping loop that starts on the left, goes up and over, then comes down and loops back to the left, crossing itself. The signature is positioned above a horizontal line.

Robert B. Blazewick  
Chief Administrative Judge