



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



In the matter of:	)	
	)	
	)	ISCR Case No. 23-01004
	)	
Applicant for Security Clearance	)	

**Appearances**

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

07/30/2024

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**Decision**

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MURPHY, Braden M., Administrative Judge:

Applicant has delinquent debts, including past-due state and federal income taxes, that are sufficient to establish a financial considerations security concern under Guideline F. He did not provide sufficient information, documented or otherwise, to mitigate financial considerations security concerns. Applicant’s eligibility for access to classified information is denied.

**Statement of the Case**

In connection with his employment with a defense contractor, Applicant submitted a security clearance application (SCA) on June 5, 2020. On January 2, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The CAS issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2,

1992), as amended (Directive); and Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on February 2, 2024, and requested an administrative (written) determination without a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On March 20, 2024, the assigned Department Counsel emailed Applicant via his given work email address and offered him the opportunity to submit additional information and documentation. On March 26, 2024, she emailed him to indicate that she had not received a response. (File)

On March 26, 2024, Department Counsel submitted the Government's File of Relevant Material (FORM), which consisted of a written brief and 11 attachments (FORM Items 1 through 11). The FORM was mailed to Applicant on March 28, 2024, and he signed a receipt for the package on April 14, 2024. (File) The FORM indicates that Applicant had 30 days from receipt to submit additional information. (FORM at 5) No response was received. On May 29, 2024, the casefile was forwarded to DOHA's Hearing Office in Arlington, VA for assignment to an administrative judge.

The case was assigned to me on July 23, 2024. FORM Items 1 and 2, the Statement of Reasons and Applicant's Answer, are the pleadings in the case. Items 3 through 11 are admitted into evidence without objection.

**Findings of Fact**

In his SOR response, Applicant admitted SOR ¶¶ 1.b, 1.g, and 1.h. He denied SOR ¶¶ 1.a, and 1.c through 1.f. He provided brief explanations as to each alleged debt, but he provided no documents with his Answer. His admissions are incorporated into the findings of fact. Additional findings follow.

Applicant is 49 years old. He has been married and divorced twice. He served in the Air Force and the Air National Guard between 1995 and 2001 and was discharged honorably. He has worked for his employer, a large defense contractor, since 2002. He has no recent periods of unemployment, though he was on leave without pay from December 2020-January 2021 due to an injury. (Item 3, Item 11)

As a cleared employee of a defense contractor, Applicant participates in DOD's Continuous Evaluation Program (CEP). A November 2019 credit bureau report (CBR) pulled by DOD revealed delinquent debts totaling about \$35,671. (Item 4) (Most of the debts on this CBR are not alleged in the SOR.)

Subsequently, Applicant submitted an SCA in June 2020. He disclosed various issues relating to the end of his second marriage, which ended in divorce in June 2018. He listed a tax lien, noting that it had been resolved. (Item 3) Applicant submitted information about his various debts in response to an interrogatory from DOD adjudicators. (It is unsigned and undated but represented in the FORM to be in June

2022. (Item 6). He also discussed his finances in his December 2022 background interview. (Items 6, 11)

The SOR alleges eight delinquent debts – six consumer debts totaling about \$20,196 (SOR ¶¶ 1.a – 1.f) as well as past-due state (\$8,453) and federal (\$2,257) income taxes from tax year (TY) 2019. (SOR ¶¶ 1.f and 1.g) Department Counsel provides several credit reports, from November 2019, April 2022, July 2022, February 2023, and March 2024, as well as tax information provided by Applicant during his background investigation. (Items 4-10) The information provided establishes a *prima facie* case for the existence of the past-due consumer debts and taxes alleged in the SOR.

SOR ¶ 1.a (\$13,267) is a charged-off debt to finance company R. Applicant denied the debt in his SOR response, stating that he had never opened an account with the company, and that he had disputed the debt with the three major credit bureaus. (Item 2) In his 2022 interrogatory response, Applicant stated that he did not open this account and when he contacted them, they had no record of him. (Item 6 at 6)

However, this debt is listed on Applicant's CBRs from November 2019 (\$8,027), April 2022 (\$11,834), July 2022 (\$12,353), and February 2023 (\$13,267, as alleged). (Items 4, 5, 7, 8) It is also listed on a March 2024 credit report, with a total balance due of \$14,942, a charge-off/high credit amount of \$5,635, and \$4,903 past due. (Item 9 at 7) Applicant did not provide any documentation to refute the reference to this account on several of his credit reports over the last five years. This account is past due and unresolved.

SOR ¶ 1.b (\$3,011) is a charged-off debt to a bank. Applicant admitted the debt but noted that his former wife was deemed responsible for the debt during their divorce proceedings, as it was for jewelry that she had purchased. He said he had contacted the lender about how to address the debt, without result. (Item 2) This debt is listed on CBRs from November 2019 (\$3,491), and is \$3,011 past due, as alleged, on CBRs from April 2022, July 2022, February 2023, and March 2024. (Items 5, 7, 8, Item 9 at 8) Applicant provided no documentation to corroborate his assertion that the debt is his ex-wife's responsibility or is otherwise being disputed or resolved.

Applicant denied the four remaining consumer debts in the SOR, all of which are past-due debts in collection. He asserted that he had disputed them with credit bureaus. He provided no documentation to corroborate any of his assertions that the debts are being resolved or are not his responsibility.

SOR ¶ 1.c (\$1,950) is a debt placed for collection by a bank. This debt is listed on CBRs from April 2022, July 2022, February 2023. (Items 5, 7, 8) Applicant did not provide any documentation to refute the reference to this account on several of his credit reports in recent years. This account is not resolved.

SOR ¶ 1.d (\$951) is a debt placed for collection by a bank. This debt is listed on CBRs from April 2022, July 2022, February 2023, and March 2024 (Items 5, 7, 8, 9) Applicant did not provide any documentation to refute the reference to this account on several of his credit reports over the last several years. This account is not resolved.

SOR ¶ 1.e (\$722) is a debt placed for collection by a credit card company. This debt is listed on CBRs from February 2023 CBR and March 2024. (Items 8, 9) Applicant did not provide any documentation to refute the reference to this account on recent credit reports. This account is not resolved.

SOR ¶ 1.f (\$295) is a debt placed in collection by a cable television and internet company. This debt is listed on CBRs from July 2022 (\$294) and February 2023 (\$295). (Items 7, 8) Applicant did not provide any documentation to refute the reference to this account on recent credit reports. This account is not resolved.

The remaining two SOR allegations concern past-due state and federal income taxes for TY 2019. On his 2020 SCA, Applicant disclosed that he spent the last six months of 2018 living and working in State 1. In January 2019, he relocated to State 2 (Item 3 at 9-10, 14-15) (He also disclosed an older tax lien, in State 2, from 2011 to 2015, noting that it related to his ex-wife and past-due mortgage payments, but noted that it was resolved. (Item 3 at 43).

SOR ¶ 1.g alleges that Applicant also owes \$8,453 in past-due federal income taxes for TY 2019. The amount is taken from his 2019 Form 1040. (Item 10 at 29). Applicant admitted the debt in his SOR response and said he was paying \$200 a month (deducted from his checking account) to resolve it. (Item 2) This, too, is uncorroborated.

SOR ¶ 1.h alleges that Applicant owes \$2,257 in past-due income taxes to State 1 for TY 2019. He admitted the debt and said in his SOR response that he was resolving it by paying \$125 a month through a payment plan (as deducted from his checking account), though this is not documented. (Item 2) In discussing his State 1 taxes during his November 2022 background interview, Applicant said he worked with a friend of a friend to file those returns, and that he still owed about \$2,200 at that time. He said he had set up a payment plan to pay his State 1 taxes at \$125 a month, though for a time he could not afford the payments. (Item 11 at 5-6)

In FORM Item 10, Applicant provided 2019 tax forms for State 1, which indicate that he owed \$2,545, as a State 1 non-resident or part-time resident, as calculated by a well-known tax software program. (Item 10 at 21) Documentation of \$2,257 as the amount owed to State 1 for TY 2019, as alleged in SOR ¶ 1.g, is unclear, and \$2,545 appears more accurate. (Item 10)

Applicant did not offer an explanation for his tax issues in his SOR response. However, he stated in his SCA and his interrogatory response that he and his wife divorced in 2018, and he experienced depression and anxiety. He changed jobs, moving to State 1 to “start over.” He self-medicated with alcohol, and was arrested for

DUI after crashing his truck. He received probation, attended counseling at his doctor's recommendation and turned his life around. He said he was "grateful" for the experience. (Item 3 at 38-39, Item 6 at 8) (Applicant's alcohol issues are not alleged in the SOR and are noted here only as background).

Applicant did not provide any documentation in response to the SOR and did not provide any subsequent information or documentation about the status of the SOR debts or about his overall financial situation. He did not respond to the FORM and did not provide any additional materials despite being given the opportunity to do so by Department Counsel. Thus, he offered no information that was more current than his SOR response in mitigation of the financial security concerns established by the evidence.

### **Policies**

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's eligibility 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 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, these guidelines are applied 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(a), 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 contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or

mitigate facts admitted by applicant or proven by Department Counsel and 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.

## **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. . . . 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 sets forth several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

Applicant incurred delinquent debts in recent years. This includes about \$10,000 (combined) in past-due state and federal income taxes from TY 2019. The debts are established by the credit reports in evidence, by the tax documentation in the record, and, where applicable, by Applicant’s admissions. The above disqualifying conditions apply.

Under Directive ¶ E3.1.15, as noted above, this shifts the burden to Applicant to rebut, explain, extenuate, or mitigate the established allegations. Applicant also has the ultimate burden of persuasion to obtain a favorable security decision.

Conditions that could mitigate 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;

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

(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; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

As noted above, Applicant did not provide updated information about the status of his debts after responding to the SOR, and never submitted any documentation about them, despite having been given several opportunities to do so. He denied responsibility for several debts, on the grounds that he did not recognize the creditors and said he did not have accounts with them. The numerous credit reports provided by the Government, including a recent CBR from March 2024, say otherwise. Applicant did not provide any documentation to refute this, as required for mitigation consideration under AG ¶ 20(e).

Applicant's tax debt is limited to the 2019 tax year, a year in the aftermath of his divorce and his DUI. While it is not clear that these issues led to his tax issues, it is also not an unreasonable inference. He said in his background interview and in his SOR

response that the tax debts were being resolved through automatic withdrawals from his checking account (\$125 a month for the state taxes and \$200 a month for the federal taxes). There is no indication of a tax lien on any of his credit reports, but the payments are not proven by documentation. AG ¶¶ 20(b) and 20(g) therefore have only limited application.

Applicant's other debts are also not established as resolved. He denied most of them, and provided no documentation of any efforts to pay, resolve, settle, or challenge any of them. Even if his debts are attributable to his divorce or its aftermath, he still has an obligation to act responsibly towards his creditors and to establish a reasonable, good-faith payment plan. He has not established that any mitigating conditions should fully apply to his remaining debts.

### **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.

Regardless of the origin of his debts, Applicant did not provide any documentation of any efforts to pay, settle, resolve, or dispute any of the debts in the SOR. He needs to establish a documented track record of payments towards his debts to fully mitigate security concerns. This is not to say that Applicant cannot be a suitable candidate for classified access in the future. Overall, however, the record evidence leaves me with questions and doubts as to Applicant's eligibility for access to classified information. Applicant did not mitigate financial security concerns.



### **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.h:	Against Applicant

### **Conclusion**

Considering all the circumstances presented by the record, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

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Braden M. Murphy  
Administrative Judge