



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



In the matter of:)	
)	
)	ISCR Case No. 23-01264
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: Andrew Henderson, Department Counsel
For Applicant: *Pro se*

09/30/2024

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On August 9, 2022, Applicant submitted a security clearance application (e-QIP). On July 6, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. The action was taken under Executive Order 10865 (EO), *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), effective within the DoD after June 8, 2017.

Applicant answered the SOR on April 23, 2024, and requested a hearing before an administrative judge. The case was assigned to me on May 20, 2024. The Defense Office of Hearings and Appeals issued a notice of hearing on June 27, 2024, and the hearing was convened as scheduled on August 14, 2024. The Government offered five

exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. The Applicant called one witness and offered no exhibits. She testified on her own behalf. The record remained open until close of business on August 22, 2024, to allow the Applicant to submit supporting documentation. Applicant submitted no additional documentation. DOHA received the transcript of the hearing (Tr.) on August 23, 2024.

Findings of Fact

Applicant is 29 years old. She is not married with a seven-year-old-son. She has a high school diploma and an Associate's degree in Medical Assisting. She has received a job offer with a defense contractor as a Material Handler, contingent on her ability to obtain a security clearance. She is seeking to obtain a security clearance in connection with this employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because she made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about her reliability, trustworthiness, and ability to protect classified information.

The SOR identified fourteen delinquent debts totaling approximately \$22,000. Applicant admitted each of the allegations set forth under this guideline. Credit reports of the Applicant dated September 2, 2022; June 26, 2023; and May 10, 2024, confirm this indebtedness. (Government Exhibits 3, 4, and 5.)

Applicant explained that there have been different reasons for her periods of unemployment that have contributed to her financial indebtedness. In October 2017, her son was born premature with a compromised immune system. She did not work after he was born in order to care for his special needs. She stated that she has been a single mother since she was four months pregnant. From 2017 to 2019, she was also responsible for taking care of her stepfather who had been in a very serious head-on car collision and needed around the clock medical attention. During that period, she also went through gall bladder surgery. In 2019, she was sexually assaulted by her son's father, and she stopped working in December 2019. She won physical and sole custody of her son, and spent about two whole weeks intermittently in court fighting her son's father on this issue. His sexual assault charge was dismissed. She returned to work in February 2020.

Applicant stated that she was also young and dumb, and at times she spent money without thought or concern. As a result of her periods of careless spending, coupled with periods of financial hardship and difficulties, she has become excessively delinquently indebted.

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor in the amount of \$3,949 for an account that was charged off. This was her vehicle, a Kia Optima, that was voluntarily repossessed in 2019, because she could not afford to continue to make the payments. Applicant has not paid the debt. (Tr. pp. 28-29.) The debt remains owing.

1.b. Applicant is indebted to a creditor in the amount of \$429 for an account that was charged off. This was a credit card that she was a cosigner on with her father. She used the credit card for food and clothes when needed. The debt was charged off in August 2022. Applicant has not paid the debt. (Tr. pp. 29-30.) The debt remains owing.

1.c. Applicant was indebted to a creditor in the amount of \$996 for an account that was placed for collection. This was tuition for a phlebotomy class she took. Applicant has not paid the debt. (Tr. pp. 30-32.) The debt remains owing.

1.d. Applicant was indebted to a creditor in the amount of \$1,219 for an account that was placed for collection. This was a credit card Applicant used for overspending. Applicant has not paid the debt. (Tr. pp. 32-33.) The debt remains owing.

1.e. Applicant is indebted to a creditor in the amount of \$1,205 for an account that was placed for collection. This was a credit card Applicant used for overspending. Applicant has not paid the debt. (Tr. pp. 33-34.) The debt remains owing.

1.f. Applicant is indebted to a creditor in the amount of \$868 for an account that was placed for collection. This was a credit card Applicant used for overspending. Applicant has not paid the debt. (TR. pp. 33-34.) The debt remains owing.

1.g. Applicant is indebted to a creditor in the amount of \$7,990 for an account that was charged off. This was a vehicle that Applicant's parents gave her. When they learned that she was pregnant, they took the car from her and gave it to another family member who was supposed to make the monthly payments. The family member did not make the payments. The car was repossessed. Applicant has not paid the debt. (TR. pp. 34-37.) The debt remains owing.

1.h. Applicant was indebted to a creditor in the amount of \$1,631 for an account that was charged off. Applicant is not sure what the debt is for. It may be an educational loan, but she has not contacted the creditor to find out. Applicant has not paid the debt. (Tr. p. 37.) The debt remains owing.

1.i. Applicant was indebted to a creditor in the amount of \$826 for an account that was charged off. This was a credit card used for Victoria's Secret. Applicant has not paid the debt. (Tr. p. 38.) The debt remains owing.

1.j. Applicant is indebted to a creditor in the amount of \$369 for an account that was charged off. This is a credit card used for to purchase items at a store called, Buckle. Applicant has not paid the debt. (Tr. p. 38.) The debt remains owing.

1.k. Applicant is indebted to a creditor in the amount of \$855 for an account that was charged off. This was a credit card she used for dental work. Applicant believes that it has been paid, but the creditor disagrees, and she provides no documentary evidence to support her claim. (Tr. pp. 38-39.) The debt remains owing.

1.l. Applicant was indebted to a creditor in the amount of \$814 for an account that was placed for collection. This is for the family plan cellular phone service. Applicant has not paid the debt. (Tr. p. 39.) The debt remains owing.

1.m. Applicant was indebted to a creditor in the amount of \$155 for an account that was placed for collection. This is for cellular phone service. Applicant is in negotiations with the creditor concerning an acceptable monthly payment agreement to resolve the debt. Applicant has not paid the debt. (Tr. pp. 39-40.) The debt remains owing.

1.n. Applicant is indebted to a creditor in the amount of \$1,153 for an account that was charged off. This was a Macy's credit card Applicant used to purchase items. Applicant has not paid the debt. (Tr. p. 40.) The debt remains owing.

Since September 2023, Applicant has been working as a Material Handler with another company. She hopes to obtain a security clearance in order to accept the job offered to her by a defense contractor in July 2022. She applied on-line for the position with the defense contractor in 2021, and she heard from them in 2022. At that time, they also sponsored her for a security clearance. Applicant submitted a security clearance application dated August 9, 2022.

Applicant currently brings home about \$1,400 monthly. Since January 2023, she has been receiving \$300 monthly in child support. She and her son live with her parents, and they split the rent for an apartment, as well as the regular monthly living expenses. After she pays the monthly bills, she has about \$50 to \$150 left at the end of the month. The rent is \$1,000 monthly. Her part is \$350 monthly. She does not have money available to pay her delinquent debts. She has applied for food stamps and cash aid to help provide for their support. She hopes to get the job with the defense contractor which pays more and provides a career path for her.

Applicant's step-father, who has known her since she was seven years old testified on her behalf. He explained that he is married to Applicant's mother. He stated that he was in a very serious car accident in 2017, and was injured very bad. Applicant helped him throughout his recovery period from 2017 to 2019. She cleaned the house, took him to his doctor appointments, and cared for him, helping him to do daily ordinary things that he could not do. He considers her to be very responsible and trustworthy.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 avoided drawing 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, 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.

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 as to 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. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

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

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

Applicant has a history of financial hardship. Her actions or inactions both demonstrate a history of not addressing her debt and/or an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20.

- (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, or a death, divorce, or separation), 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.

Applicant has incurred delinquent debt that she cannot afford to pay. Some of her debt was due to hardship and difficulties. Other debt she caused by frivolous overspending. Since she has incurred the debt, she has done nothing to resolve it. There is no evidence of any debt consolidation, payment plans, or any effort to settle or mediate her debts. She has not made a good faith effort to address her indebtedness, and each of the delinquent debts listed in the SOR remain owing.

It is noted that Applicant and her son reside with her parents and share or split the rent and monthly expenses for their apartment. That is one method of showing that she is making an effort to reduce her expenses. However, Applicant's financial irresponsibility and inaction for so long casts doubt on her current reliability, trustworthiness, or good judgment. Applicant appears to want to resolve her debt, but she has lots of work to do to achieve this. In fact, she has not even started the process. Applicant has not addressed any of her delinquent debts. If a security clearance is something she truly wishes to obtain, she must work diligently at showing the Government that she can live within her means, and properly resolve her financial delinquencies. None of the mitigating conditions are applicable.

Applicant has not made a good faith effort to resolve her debts. Overall, Applicant owes a significant amount of money to her creditors and has made no effort to resolve the debt. There is insufficient evidence in the record to show that the Applicant has carried her burden of proof to establish mitigation of the government security concerns under Guideline F.

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. In the event that Applicant realizes how to properly address her financial delinquencies and makes a commitment to show financial responsibility, sometime in the future she may be found to be sufficiently reliable to properly protect and access classified information, but not at this time.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations security concern.

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, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.n.	Against Applicant

Conclusion

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

Darlene Lokey Anderson
Administrative Judge