



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



In the matter of:)	
)	
)	ISCR Case No. 23-02854
)	
)	
Applicant for Security Clearance)	

Appearances

For Government: John Renehan Esq., Department Counsel
For Applicant: *Pro se*

10/15/2024

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On May 4, 2022, Applicant submitted a security clearance application (e-QIP). On January 9, 2024, the Defense Counterintelligence and Security Agency 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 January 15, 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 July 11, 2024, and the hearing was convened as scheduled on August 21, 2024. The Government

offered five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. The Applicant offered seven exhibits, referred to as Applicant's Exhibits A through G, which were admitted without objection. Applicant testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on September 3, 2024.

Findings of Fact

Applicant is 31 years old. He is recently married and has two children, one is not his biological child. The mother of his two children is his deceased girlfriend. He has a high school diploma and three years of college. He holds the position of Maintenance Electrician. He is seeking to obtain a security clearance in connection with his employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he 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 his reliability, trustworthiness and ability to protect classified information.

The SOR identified eleven delinquent debts totaling approximately \$21,000. Applicant admitted each of the allegations set forth under this guideline. Credit reports of the Applicant dated May 14, 2022; October 6, 2023; and April 22, 2024, confirm each of the delinquent debts listed in the SOR. (Government Exhibits 3, 4, and 5.)

Applicant stated that most of his financial difficulties were caused by his unexpected termination from a previous job. From November 2017 to February 2019, he worked for a small Mom and Pop company doing many things but considered himself the Head of Assembly or the Rental Manager. Applicant was accused of using the company car for personal business, and for allowing his girlfriend at the time to bring his children into the warehouse area of the company. Applicant claims that the company policies were not in writing or regularly enforced, and he was terminated. Prior to this employment, Applicant worked for another company from 2016 to 2017, and was let go for failing to accomplish the tasks he was assigned, or in other words, not working hard enough to get the job done. From 2019 through 2021, Applicant worked several other jobs and left on his own accord.

In May 2022, Applicant began working for his current employer, and he completed a security clearance questionnaire for the first time. The questionnaire asked him if he had any delinquent debts, or accounts sent to a collection agency, or accounts that had been charged off or suspended in the last seven years. Applicant responded, "NO." This was a false response. Another question on the application asked him if he had any accounts or credit suspended or charged off or cancelled for failing to pay as agreed. Applicant again answered, "NO." This was also a false response. Applicant stated that he may have misunderstood the question, or he did not

read it well. He also indicated that it could be possible that he answered, "No," to the questions to improve his ability to obtain a security clearance and keep his job. (Tr. p. 60.)

In July 2022, Applicant was interviewed by an investigator concerning his financial indebtedness. The investigator discussed the debts with the Applicant, and he admitted to each debt that is listed in the SOR. He told the investigator that he was going to look into the debts soon. Applicant stated that he hired a credit counseling company to assist him in resolving his debts, and paid them \$100 monthly for several months, before realizing that they were not helping him at all. They were supposed to either dispute, negotiate settlements, set up payment plans, or remove the debt from his credit report, but they were not helpful.

Applicant stated that he has never followed a financial budget or learned how to properly be financially responsible. He has neglected a lot of his debts for a long time, and he did not take the situation seriously. He stated that he was never taught anything about finances and has had to learn on his own. He has recently started to address his debts. He now realizes that in order to be eligible for a security clearance he must live within his means, follow a budget, and make responsible purchases.

The following delinquent debts listed in the SOR are of security concern:

1.a. Applicant is indebted to a creditor in the amount of \$4,462 for an account that was placed for collection. This was a cellular phone bill from services for Applicant and his deceased girlfriend. They lived together at the time. The account was in Applicant's name. Applicant believes that his deceased girlfriend may have stole his social security number to put the account in his name. He admits that the debt is his, as he had set up automatic payments to pay it. Applicant stated that he did not realize how high the debt had gotten. Applicant has recently reached a settlement agreement with the creditor. He is required to make two payments of \$446.25 to resolve the debt in full. He has made one of the payments already. The other payment is due on September 23, 2024. The debt currently remains owing but is in the process of being paid. (Applicant's Exhibits A, B, and G, and Tr. pp. 41-45.)

1.b. Applicant was indebted to a creditor in the amount of \$2,658 for an account that was charged off. He admitted the debt, but he does not recognize the debt, which appears to be a personal loan. He contacted the creditor about how to dispute the debt. The creditor recommended that he file a police report. The debt remains owing. (Tr. pp. 66-71.)

1.c. Applicant was indebted to a creditor in the amount of \$760 for an account that was charged off. This was a credit card he used for groceries between 2018 to 2019. The debt remains owing. (Tr. pp. 76-78.)

1.d. Applicant was indebted to a creditor in the amount of \$540 for an account that was charged off. This was a department store credit card he used for children's clothes between 2018 to 2019. Applicant made payments of \$90.15, twice in July and

once in August and resolved the debt in full. The debt has been paid off. (Applicant's Exhibit C, and Tr. pp. 78-82.)

1.e. Applicant is indebted to a creditor in the amount of \$469 for an account that was charged off. This is a payday loan. The debt remains owing. (Tr. pp. 82-84.)

1.f. Applicant is indebted to a creditor in the amount of \$163 for an account that was charged off. This was a T-mobile account. The debt remains owing. (Tr. pp. 85-86.)

1.g. Applicant is indebted to a creditor in the amount of \$9,125 for an account that was charged off. This is an auto loan for a vehicle purchased in 2018. The car was voluntarily repossessed in 2019, after Applicant was terminated from his job. The creditor offered to settle the debt for \$1,369.76. Applicant has been making monthly payments since January 2024. Applicant explained that one payment was returned because he did not have the money in his account. The debt is in the process of being paid. (Applicant's Exhibits D, E, and F, and Tr. pp. 86-94.)

1.h. Applicant is indebted to a creditor in the amount of \$1,703 for an account that was placed for collection. This is a cell phone bill. Applicant stated that he thought the account would be paid off when he switched cell phone carriers. It was not paid. The creditor offered to settle the debt for \$1,200, but Applicant cannot afford to do so at this time. The debt remains owing. (Tr. pp. 94-98.)

1.i. Applicant is indebted to a creditor in the amount of \$671 for an account that was placed for collection. This is a credit card he used for groceries from 2018 to 2019. The debt remains owing. (Tr. pp. 99-100.)

1.j. Applicant is indebted to a creditor in the amount of \$529 for an account that was placed for collection. This is a home internet account. Applicant did not return the router when he moved out of the house. He believes that his previous girlfriend's mother took the router. The debt remains owing. (Tr. pp. 100-110.)

1.k. Applicant is indebted to a creditor in the amount of \$285 for an account that was charged off. This is a credit card. The debt remains owing. (Tr. pp. 110-111.)

Applicant also still owes his attorney about \$1,500 in legal fees. Applicant explained that after his previous girlfriend passed away in July 2022, he and her parents became involved a legal custody battle for the two children. One of the children was not Applicant's biological child. Both parties hired legal counsel to assist the process. The grandparents were initially awarded physical custody of the children, and Applicant received visitation rights every weekend. After several months of this arrangement, the grandparents decided it best that Applicant have physical custody of the youngest child who is five years old, and they have custody of the other child, Applicant's step-son.

In June 2024, Applicant got married. He stated that he plans to ask questions, look for advice and learn from his wife who is financially responsible and understands

how to live within her means and pay her bills on time. She owns the house that they live in. They share the living expenses. He currently brings home between \$3,600 and \$4,500 monthly. He has no idea how much money his wife brings home. After paying his regular monthly expenses including his car payment, he has between \$300 and \$400 left in discretionary monies available.

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 difficulties due to his irresponsibility. As he stated, he has ignored his delinquent debts for a long time. His actions or inactions both demonstrate a history of not addressing his 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 was terminated from two previous jobs. The first time, for not working hard enough, and the second time, for violating company procedure. When he did gain employment, he did not focus his attention on resolving his delinquent debts. Instead, he ignored them. It was not until he was required to apply for a security clearance in 2022, that he realized the importance of paying his delinquent debts. His financial irresponsibility and inaction casts doubt on his current reliability, trustworthiness, or good judgment. Applicant now realizes his mistakes of the past and understands that he must be financially responsible and live within his means if he is to obtain a security clearance in the future. Although Applicant recently hired a Credit Repair Agency to assist him with his financial situation, he soon learned that they were not helpful and decided to work on resolving his debts himself. Presently, he has not sufficiently resolved enough of his delinquent debt to demonstrate a sustained systematic method of payment. He must continue to work diligently to improve his financial status by making regular monthly payments or otherwise resolve his debts in a systematic method to show that he is sufficiently responsible for access to classified information. Furthermore, although it was not formally alleged, Applicant was not truthful with the Government when he answered the questions on the security clearance application about his financial history. At this time, Applicant needs more time to demonstrate that he can and will be financially responsible, and that he will always be truthful and honest in his responses to questions by the Government. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant can and will be able to properly manage his finances. This means paying his bills on time and living within his means. Applicant still owes a significant amount of money to his creditors, and he has just begun to resolve them. There is insufficient evidence in the record to show that Applicant has carried his 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 follows through with his commitment to show financial responsibility, sometime in the future he may be found to be sufficiently reliable to properly protect and access classified information.

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.c.	Against Applicant
Subparagraph 1.d.	For Applicant
Subparagraphs 1.e., through 1.k.	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