



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



In the matter of: )  
 )  
----- ) ISCR Case No. 23-00585  
 )  
Applicant for Security Clearance )

**Appearances**

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

10/30/2024

**Decision**

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate financial consideration concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

**Statement of the Case**

On August 2, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Central Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guidelines the DCSA could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DoD Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on August 16, 2023, and requested a hearing. The case was assigned to me on April 17, 2024. A hearing was scheduled for June 10, 2024, and was heard as scheduled. At the hearing, the Government's case consisted of 17 exhibits. (GEs 1-17), which were admitted without objection. Applicant relied on one witness (himself) and no exhibits. The transcript (Tr.) was received on June 25, 2024.

### **Procedural Issues**

Prior to the opening of the hearing, Department Counsel moved to amend SOR ¶ 2.d to read as follows: "In about March 2005, you were discharged from the Army for a pattern of misconduct (implicitly inclusive of fighting with a non-commissioned officer (NCO)). Department Counsel's amendment motion was granted without objection. (Tr. 15)

Before the close of the hearing, Applicant requested the record be kept open to permit him the opportunity to supplement the record with documentation of his federal and state tax filings for tax years 2015-2016 and 2020 and his current residence state child support account summary and state transfer timelines. (Tr. 129) For good cause shown, Applicant was granted seven calendar days to supplement the record. Department Counsel was afforded seven days to respond. Within the time permitted, Applicant documented his filed federal 2022 federal tax return. Applicant's post-hearing exhibit was admitted without objection as Applicant's Exhibit A (AE A).

### **Summary of Pleadings**

Under Guideline F, Applicant allegedly (a) failed to file his federal and state income tax returns, as required, for tax years 2015-2016 and 2018-2020; (b) is indebted for child support arrears of \$39,806; and (c) accumulated four delinquent debts exceeding \$33,000. Allegedly, these federal and state tax filings, child support arrears, and delinquent debts remain unresolved and outstanding.

Under Guideline, E, Applicant allegedly falsified his electronic questionnaires for investigations processing (e-QIP) of March 2018 by omitting his failure to file his federal and state tax returns for the years in issue; (b) was fired from his employment with Company A for sexually harassing co-workers; (c) was discharged from the Army for cited misconduct (i.e., fighting with a a non-commissioned officer (NCO)) later amended to read pattern misconduct; and (d) was apprehended by military police in December 2004 for committing an assault consummated by battery against his spouse, who was pregnant (probable cause opined by a judge advocate officer that he committed the offense Finally, the SOR cross-alleged the allegations covered by SOR Guidelines F and J. (SOR ¶¶ 1.a-1.1.b, 1.d, 1.f, and 1.g)

Under Guideline J, Applicant allegedly was arrested and charged with multiple criminal offenses (four in all) between 2011 and 2015. No convictions were alleged.

In Applicant's response to the SOR, he denied the allegations of failing to file his federal and state tax returns for tax years 2015-2016 and 2018-2020. He denied most of

the other allegations covered by Guideline F, admitting only the allegations covered by SOR ¶ 1.e. Addressing the allegations covered by Guideline E (inclusive of the allegations incorporated from Guidelines F and J), Applicant denied most of the allegations, admitting only the allegations covered by SOR ¶ 2.d. Applicant denied most of the allegations covered by Guideline J, admitting only the allegations covered by SOR ¶¶ 3.b and 3.d.

### **Findings of Fact**

Applicant is a 41-year-old employee of a defense contractor who seeks a security clearance. Allegations covered in the SOR and admitted by Applicant are incorporated and adopted as relevant and material findings. Additional findings follow.

### **Background**

Applicant married in September 2002 and divorced in 2004. (GEs -2; Tr. 36) He has two children (ages 19 and 21) from this marriage. Since 2021, he has cohabited with his girlfriend. (GE 1) He reported taking on-line college classes from September 2021 through October 2021 without earning a degree or diploma. (GE 3) He enlisted in the Army in June 2001 and served four years of active duty before receiving a general discharge in March 2005 for cited misconduct (fighting with a non-commissioned officer). (GEs 1-4 and 16-17; Tr. 63-70)

Since February 2022, Applicant has been employed by his current employer as an engineering technician. (Tr. 34) Previously, he worked for other employers. (GEs 1-4) Between September 2019 and April 2021, he was employed as a behavioral health specialist before he was terminated for a cited violation of company policy (i.e., sexual harassment of coworkers). (GEs 1 and 3-5; Tr. 45)

Applicant reported multiple periods of involuntary terminations (nine in all, inclusive of his April 2021 termination), unemployment, and layoffs between May 2008 and April 2021 for assorted reasons. (GEs 1-5; Tr.43-46, 56-59) Asked about sexually-related comments he made to coworkers in past places of employment, Applicant freely acknowledged making sexually tinged jokes to coworkers that could have been interpreted to be offensive. (Tr. 46-52)

### **Applicant's Finances**

Records document that Applicant did not file his federal and state income tax returns (timely or otherwise), as required, for tax years 2015-2016 and 2018-2020 (GEs 1-4; Tr. 119) Explanations offered by Applicant for his tax-filing lapses were several: lack of funds, receipt of a letter from the U.S. Treasury Department in 2016 or 2017 informing him of his loss of passport privileges and loss of refunds pending his satisfaction of his child support arrears, and contemporaneous assurances he received from his tax preparer that the IRS would be filing his federal and state tax returns for the years in issue. (GE 3; Tr.115-116, 129-130)

Still, Applicant acknowledged his being made aware by his tax preparer and the IRS as early as 2021 that he was behind in the filing of his federal and state tax returns for tax years 2015-2016 and 2018-2020. (GE 3; Tr. 119-122) Even when armed with this confirmed information from the Internal Revenue Service (IRS), he failed to take any affirmative steps to file his federal and state tax returns for the years in issue.

Documentation is lacking for each of the explanations Applicant offered concerning his tax-filing lapses for the years in issue, and his overall credibility is insufficiently established to permit the acceptance of any of his explanations on the basis of his verbal assurances alone. Based on the evidence developed in the record, inferences warrant that Applicant failed to file his 2015-2016 and 2018-2020 federal and state tax returns, either timely or otherwise.

Between 2015 and 2021, Applicant accumulated child support arrears exceeding \$67,000. (GEs 3-4 and 12-15; Tr. 145-149) Records to date document no initiated efforts on Applicant's part to address his child support arrears.

Owed child support arrears are attributable to Applicant in two states. One is the subject of a child support enforcement action filed in his current state (State A) of residence (covered by SOR ¶ 1.d for \$39,806), and the other involves an enforcement action filed by a state child support enforcement agency in his ex-wife's former state (State B) of residence (covered by SOR ¶ 1.f for \$26,906). (GEs 3, 12, and 15; Tr. 149-157) Credit reports confirm the following chronology of child support arrears transfers: Initially from State B to State C (SOR ¶ 1.f), which closed out its enforcement action and transferred its case to Applicant's current state of residence (State A). (GEs 3, 12, and 15; Tr. 153-159)

Although there is no timeline in the record to track these child support enforcement actions, from all of the evidence produced in the record, the best inferences to draw from the cumulative evidence produced is that Applicant's previous child arrears balance in State C was consolidated in the pending enforcement action in State A to produce the listed \$39,806 arrears balance owing (covered by SOR ¶ 1.d). Adoption of this inference absolves Applicant of any child arrears owing under SOR ¶ 1.f.

Besides his accrued child support arrears, Applicant accumulated three consumer debts (covered by SOR ¶¶ 1.c, 1.e, and 1.g), exceeding \$6,000 with accrued interest. (GEs 7, and 12-15; Tr. 97-98, 105-106, 145-149) None of these delinquent accounts have been paid or seriously addressed by Applicant to date. While he reportedly agreed to a monthly payment arrangement with the court on the fine imposed on a traffic citation issued in September 2005, he defaulted on his arrangement and remains indebted on the imposed \$800 fine that now exceeds \$1,169 with accruing interest. (GE 7; Tr. 103-106)

While Applicant could have likely benefitted from tax counseling and debt relief assistance, he has opted for neither to help him with his past tax filing, child support arrears, and other financial issues. To date, he has declined seeking financial

assistance. To his credit, he acknowledged his painful memories of his many judgment lapses in the management of his finances and offered hope for the future with his gaining custody of his two children. (Tr. 170-171) He provided no concrete plans or pathways forward, however, to improve and stabilize his financial situation. At this time, his finances cannot be defined as either stable or in a state of improvement.

### **Applicant's History of Criminal Offenses**

Between September 2005 and February 2015, Applicant was involved in multiple criminal offenses (some traffic-related). As a young adult, he was arrested in September 2005 and charged with driving on a suspended license, providing no proof of insurance, and speeding. (GEs 6-7) In court, he pled guilty to the charges and was fined \$800. (GE 7; Tr. 97-98, 103-104, and 113)

Court records document that in June 2011, Applicant was arrested and charged with littering. (GEs 3 and 11; Tr. 94-99) He admitted the charges without offering any explanations of the court's disposition. (Tr. 95)

In June 2013, Applicant was arrested and charged with domestic violence/assault and domestic violence/criminal damage. (GE 10; Tr. 88-94) His arrest and ensuing charges were triggered by verbal and physical abuses he exchanged with his two female housemates (sisters). (GE 10; Tr. 88-94) .Court records document the dismissal of the charges in July 2013 without any assigned reasons. (GE 6) Based on Applicant's version of the exchange with his housemates and the court's subsequent dismissal of the charges without comment, this incident is resolved favorably to Applicant.

Applicant was involved in another traffic-related incident in December 2013 and was charged with driving on a suspended license. (GE 9) Court records document that the charges were court-dismissed in March 2014. (GE 6) These charges are resolved favorably to Applicant.

In a more recent arrest, Applicant was and charged in February 2015 with disorderly conduct (fighting). (GE 8) Tr. 77-78) This police report covering the fighting incident recites the respective versions of Applicant and the woman who claimed Applicant bumped into her and later pushed her. (GE 8). Applicant denied any intentional pushing of the woman, and there are mixed accounts in the police report of the exchange. Court records confirm that the case was dismissed in March 2015 without comment. (GE 6) Applicant's account of the exchange with the female bar patron was never challenged in court prior to the court's dismissal of the charges. Without more evidence to reconcile the competing versions of the bar incident, these charges covered by SOR ¶ 3.a are resolved favorably to Applicant.

### **Applicant's e-QIP Omissions**

Asked to complete e-QIPs in March 2018 and October 2021, Applicant omitted his failures to file his federal and state tax returns, as required, for tax years 2015-2016

and 2018-2020. (GEs 1-2; Tr. 138-139)) Aware that he had not filed either his federal or state tax returns for the years in issue, he attributed his omissions in both cases to mistaken misunderstandings over whether he could reasonably defer acknowledging his tax-filing failures to prospective future interviews with Government investigators. (Tr. 139-140) Applicant's claimed misunderstandings are neither plausible nor credible. Nothing in the e-QIPS he was asked to complete afforded him the right to withhold material information.

The e-QIPs Applicant completed were clear in their wording and required full and complete answers to the questions posed. Applicant's omissions were both relevant and material to a DoD investigation of his eligibility to hold a security clearance and required full and truthful answers to the questions posed in section 26 of the e-QIPs about the filing of his federal and state tax returns, as required by law. Applicant's omissions, considering all of the surrounding circumstances, warrant drawn inferences of knowing and willful withholding of information material to his background investigation.

When interviewed by an investigator from the Office of Personnel Management (OPM) in July 2023 (nearly two years later), Applicant voluntarily acknowledged only his failure to file his federal and state tax returns for tax years 2019-2020. (GE 3) Aware of his collective failures to file federal and state tax returns for tax years 2015-2016 and 2018-2020 (at least since 2021), he withheld information covering his tax-filing failures for tax years 2015-2016 from the interviewing OPM investigator (GE 3; Tr. 175-176) Characterizing Applicant's answers as discrepant, the investigator did not press him for any clarification of his answers. (GE 3) Providing neither timely nor complete corrections to his e-QIP omissions of his tax-filing lapses, Applicant's OPM responses cannot be considered either prompt or good-faith disclosures.

### **Policies**

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." As Commander in Chief, "the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. Eligibility for access to classified information may only be granted "upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information.

These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any. These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

### **Financial Considerations**

*The Concern:* Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds . . . . AG ¶ 18.

## **Personal Conduct**

*The 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, and 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 . . . AG ¶ 15.

## **Criminal Conduct**

*The Concern:* Criminal conduct activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations. AG ¶ 30.

## **Burdens of Proof**

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 48 U.S. at 531; see AG ¶ 12(b).



## Analysis

Security concerns are raised over Applicant's failures to timely file his federal and state income tax returns for tax years 2015-2016 and 2018-2020. His multiple tax-filing lapses combined with his accumulation of child support arrears, delinquent consumer debts, and an unpaid fine raise trust, reliability, and judgment concerns about his current and future ability to manage his finances safely and responsibly. Additional security concerns are raised over Applicant's e-QIP omissions, Army general discharge and involuntary terminations, and assorted criminal arrests and charges (some traffic-related and others involving disorderly conduct and domestic assault).

### Financia Concerns

Applicant's multiple federal and state tax-filing lapses and accumulation of child arrears delinquent consumer debts, and unpaid fines warrant the application of three of the disqualifying conditions (DC) of the financial consideration guideline. DC ¶¶ 19(a), "inability to satisfy debts"; 19(c), "a history of not meeting financial obligations"; and 19(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." Each of these DCs bear relevance and materiality to Applicant's situation.

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder's demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving tax-filing and payment failures are critical to an assessment of an applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015); ISCR Case No. 14-00221 at 2-5 (App. Bd. June 29, 2016).

Fully documented are Applicant's multiple tax-filing lapses for tax years 2015-2016 and 2018-2020, as required. For all of these tax years, Applicant had imputed awareness of his required filing of his tax returns for these tax years and was made expressly aware of his tax-filing obligations at least by 2021. Child support arrears accrued by applicant in State A remain unresolved and outstanding. And, Applicant has yet to make any progress in addressing and resolving his accumulated delinquent debts and unpaid fine imposed by a court of State A in 2005.

Without any evidence of approved extensions of times for Applicant's filing his federal and state tax returns, none of the potentially available mitigating conditions are available to him. Nor are any of the potentially applicable mitigating conditions available

to Applicant in connection with his still unresolved child support arrears, delinquent consumer debts, and imposed court fine.

In the past, the Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating actions taken to resolve financial problems, whether the issues relate to back taxes, consumer, child support, medical, or other debts and accounts. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020)

Federal and state tax returns filed by applicants after the issuance of an SOR (even assuming, *arguendo*, that Applicant ever filed his federal and state tax returns for the tax years in issue) have generally been held to fall short of the high standards of timeliness imposed on applicants seeking security clearance eligibility. See ISCR Case No. 14-06808, *supra*; ISCR Case No. 14-00221, *supra*; and ISCR Case No. 14-01894, *supra*.

### **Personal Conduct Concerns**

Additional security concerns are raised over Applicant's (a) falsification of the e-QIPs he completed in 2018 and 2021 (knowingly and willfully omitting his tax filing lapses covering tax years 2015-2016 and 2018-2020; (b) his involuntary employment termination in April 2021 based on cited sexual harassment of coworkers; (c) his general discharge from the Army in March 2005 for cited pattern misconduct (implicitly inclusive of fighting with an NCO); (d) his apprehension by military police in December 2004 for cited battery of his pregnant spouse, and (e) the allegations and findings incorporated from Guideline F.

On the strength of the evidence documented in the record, two disqualifying conditions (DC) of the personal conduct guideline apply. DC ¶ 16(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 security eligibility or trustworthiness, or award fiduciary responsibilities."

Applicable as well is DC ¶ 16(d):

credible adverse information that is not explicitly covered by any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. this include, but is not limited to consideration of: . . . (3) a pattern of dishonesty or rule violations.

Availability of mitigating conditions to Applicant is very limited. His multiple judgment lapses associated with his e-QIP omissions and other cited actions covered by Guidelines E and F are troubling and continue to raise questions about his recurrence risks. Without more evidence of rehabilitative measures (to include counseling and more sustained efforts to avert recurrent incidents), it is too soon to make safe predictive judgments about Applicant's ability to avoid similar judgment lapses in the future. Based on Applicant's track record to date, none of the potentially available mitigating conditions are available to him under Guideline E.

### **Criminal Conduct Concerns**

Security concerns are also raised under Guideline J. These concerns cover multiple arrests and charges over offenses arising between September 2005 and February 2015. One applicable DC covered by Guideline J is DC ¶¶ 31(b), "evidence (including, but not limited to a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted." Of the covered Guideline J allegations, two are unsubstantiated (SOR ¶¶ 3.a and 3.c). The remaining three allegations covered by SOR ¶¶ 3.b, 3.d, and 3.e, while substantiated, are mitigated by the passage of time. MCs ¶¶ 32(a), "so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment"; and 32(c), "no reliable evidence to support that the individual committed the offense" apply to Applicant's situation.

### **Whole-person Assessment**

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether his history of multiple tax-filing lapses, accrual of child support arrears, and accumulation of delinquent consumer debts and unpaid fines are fully compatible with minimum standards for holding a security clearance. With so little demonstration of overall credibility, accountability, and responsibility, Applicant's efforts in establishing his clearance eligibility are not enough to overcome his repeated failures or inability to address his tax-filing failures, debts, and court-imposed fines over the course of many years.

Compounding Applicant's problems in establishing the requisite trust, reliability, and judgment for holding a security clearance are his unmitigated e-QIP omissions and general military discharge and involuntary civilian terminations. None of these raised concerns have been mitigated or otherwise favorably resolved.

Overall trustworthiness, reliability, and good judgment have not been established. Based on consideration of all the facts and circumstances considered in this case, it is too soon to make safe predictions that Applicant will be able to undertake reasoned, good-faith efforts to mitigate the Government's financial and personal conduct concerns within the foreseeable future. More time is needed for Applicant to establish the

requisite levels of trust, reliability, and judgment necessary to hold a security position or occupy a sensitive position.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations and personal conduct security concerns are not mitigated. Raised criminal conduct concerns are mitigated. Eligibility for access to classified information is denied.

### **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:

**GUIDELINE F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT**

Subparagraphs 1.a-1.e and 1.g:	Against Applicant
Subparagraph 1.f:	For Applicant

**GUIDELINE E (PERSONAL CONDUCT): AGAINST APPLICANT**

Subparagraphs 2.a-2.f:	Against Applicant
------------------------	-------------------

**GUIDELINE J (CRIMINAL CONDUCT): FOR APPLICANT**

Subparagraphs 3.a-3-e:	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 interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Roger C. Wesley  
Administrative Judge