



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



In the matter of:)	
)	
)	ISCR Case No. 24-00704
)	
)	
Applicant for Security Clearance)	

Appearances

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

11/22/2024

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On July 17, 2023, Applicant submitted a security clearance application (e-QIP). On May 24, 2024, 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 June 4, 2024; and August 16, 2024, and requested a hearing before an administrative judge. The case was assigned to me on September 16, 2024. The Defense Office of Hearings and Appeals issued a notice of hearing on September 16, 2024, and the hearing was scheduled for October 15, 2024.

Applicant failed to appear and later requested a continuance. The hearing was rescheduled and convened on October 30, 2024. The Government offered six exhibits, referred to as Government Exhibits 1 through 6, which were admitted without objection. The Applicant offered no exhibits. She did testify on her own behalf. DOHA received the transcript of the hearing (Tr.) on November 7, 2024.

Findings of Fact

Applicant is 38 years old. She has never married and has four children, ages 14, 10, 7, and 5. She has a high school diploma. She holds the position of Expeditor. She is seeking to obtain a security clearance in connection with her employment with a defense contractor.

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 her reliability, trustworthiness and ability to protect classified information.

The SOR identified twelve delinquent debts totaling approximately \$59,000. \$10,000 of that debt is owed to the Federal Government in back taxes for tax year 2022. Applicant admitted each of the allegations set forth under this guideline. Credit reports of the Applicant dated July 28, 2023; January 30, 2024; and September 9, 2024, confirms the indebtedness listed in the SOR. (Government Exhibits 4, 5 and 6.)

Applicant has a history of steady and consistent employment going back as far as 2011. She is a single mother with four children. She currently receives \$1,000 monthly in child support for three of her four children. She began working for her current employer in 2023. This is her first time applying for a security clearance. She completed the security clearance questionnaire dated July 17, 2023. She was earning \$52,680 annually but she received a raise and is now earning between \$61,000 and \$62,000 annually. Even though she is currently earning more money annually than she used to, she stated that she is not bringing more money home. Applicant stated that she has every intent to resolve her delinquent debts, and she will be trying to address one at a time before she moves on to the next one. However, after paying her regular monthly expenses, she does not have money available to pay her delinquent debts.

Applicant was hospitalized twice this year for medical reasons. She spent a week in the hospital in January 2024, and three days in May 2024. She was placed off work by her healthcare provider for a two-month period beginning the last week of September 2024, continuing through the beginning of December 2024, due to her diagnosis of Major Depressive Disorder. Her doctor recently set up a plan for her to receive treatment for her condition. She was referred to receive mental health treatment through an outpatient treatment program. She is scheduled to start seeing a therapist and a psychiatrist three days a week to treat her condition. She has applied

for state disability assistance and is waiting for processing to receive those benefits. Her employer also has insurance disability benefits that she is waiting to receive. (Tr. pp. 41-46.) She believes that the combination of these two benefits will give her 100 percent of her salary.

The following delinquent debts are of security concern:

1.a. Applicant is indebted to a creditor for a delinquent car loan in the amount of \$19,766 that was charged off. Applicant explained that after purchasing a 2018 Kia for about \$22,060, which she had for about a year, she got pregnant unexpectedly, and did not have room for three car seats. She voluntarily returned the car to the dealer. The dealer would not allow her to trade the car in because she owed too much on the loan. (Tr. pp. 27-29.) The debt remains owing.

1.b. Applicant is indebted to a creditor for a delinquent personal loan in the amount of \$8,810 that was placed for collection. She explained that the loan was being paid through an allotment she set up when she worked for the Post Office, which came right out of her check. When she left the Post Office due to COVID, the allotment stopped. (Tr. pp. 38-40.) The debt remains owing.

1.c. Applicant is indebted to a creditor for a delinquent medical account in the amount of \$4,433 that was \$2,166 when placed for collection. Applicant stated that this medical bill was incurred to provide the medical care she received this year. She stated that she contacted her health provider, and they told her that she can start paying as little as \$50 monthly. She has not been able to start the payments yet. (Tr. pp. 41 and 47-48.) The debt remains owing.

1.d. Applicant is indebted to a creditor for a delinquent personal loan in the amount of \$1,188 that was placed for collection. She explained that the loan was being paid through an allotment she set up when she worked for the Post Office. When she left the Post Office, the allotment stopped. (Tr. p. 48-49.) She has not taken any steps to resolve this debt. The debt remains owing.

1.e. Applicant is indebted to a creditor for a delinquent credit card debt in the amount of \$803 that was placed for collection. Applicant stated that she is in the process of paying this debt. She stated that she has been making regular monthly payments of \$50 monthly since she received the SOR, or since January 2024. She may have missed making a payment for one month. (Tr. pp. 49-50.) The debt is being paid.

1.f. Applicant is indebted to a creditor for a delinquent cable company debt in the amount of \$752 that was placed for collection. Applicant explained that when her daughter's father stopped paying the cable bill, she left the cable box and other related equipment in the house when she moved out. (Tr. pp. 51-52.) Applicant has contacted the creditor, but the payment arrangement they have requested is more than she can afford. The debt remains owing.

1.g. Applicant is indebted to a creditor for a delinquent T-Mobile bill in the amount of \$489 that was placed for collection. Applicant stated that she does not remember ever using this company for cellular phone service. She has not made any payments toward resolving the debt. (Tr. p. 52-53.) The debt remains owing.

1.h. Applicant is indebted to a creditor for a delinquent car insurance bill in the amount of \$236 that was placed for collection. Applicant stated that she has paid the bill. She has not provided any documentation to support her claim. (Tr. p. 53.) The debt remains owing.

1.i. Applicant is indebted to a creditor for a delinquent car loan account in the amount of \$14,024 that was placed for collection. Applicant purchased a Pathfinder that was hit by another car while parked. Applicant's car insurance would not cover the damage and the vehicle was not drivable. Applicant returned the vehicle to the dealer. (Tr. pp. 53.) The debt remains owing.

1.j. Applicant is indebted to a creditor for a delinquent debt owed to a jewelry store in the amount of \$775 that was placed for collection. Applicant purchased a necklace that she had to stop making the payments on. She contacted the creditor and was told that she can pay anything at any time. The debt is very old, and she has not taken any steps to resolve it. (Tr. pp. 53-54.) The debt remains owing.

1.k. Applicant is indebted to a creditor for a delinquent personal loan in the amount of \$315 that was placed for collection. Applicant explained that this was a pay-day loan she took out. She stated that she has paid \$100 toward the debt, and she makes payments towards it when she can afford to. There is no documentation to support her claim that she paid \$100 toward the debt. (Tr. p. 54.) The debt remains owing.

1.l. Applicant is indebted to the Federal Government for delinquent Federal taxes in the amount of \$10,407.42 for tax year 2022. During COVID, for a year and a half, Applicant received disability benefits in order to stay home with her children. She did not complete and file the necessary tax form to properly include the disability as income. As a result, she owes taxes for the money she received. She also received disability for six months while on bed rest when she was pregnant with her now seven-year-old son. These tax liabilities were combined by the Federal Government and are owing for tax year 2022. Applicant stated that she set up a payment arrangement in January 2024, to start the payments in June 2024. She stated that she has been making monthly payments of \$137 toward the debt since June 2024. The payment automatically comes out of her paycheck. (Tr. pp. 54-59.) The debt is being paid.

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;
- (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 returns as required.

Applicant has a history of not addressing her financial obligations. 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;

(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.

Raising four children on your own is no easy task for anyone. Applicant has a lot of responsibility, and it appears that she has worked hard and done her best to provide for her children. At the same time, she is also stricken with a health issue. Applicant expressed that she wants to resolve her debt, however, under the circumstances this may not be possible at this time. She stated that for the past five months or so, she has made regular monthly payments of \$137 toward her Federal back taxes. She also stated that she has made a few other payments. However, given the extent of her indebtedness, Applicant needs more time to show the Government that she will properly resolve her financial delinquencies with regular systematic payments and consistency. None of the mitigating conditions are applicable.

There is insufficient evidence in the record to show that Applicant has made a good-faith effort to resolve her debts. Overall, Applicant shows little progress towards resolving her debts. She stated that she has made a few payments here and there, but there is no documentary evidence in the record to support her claims. Assuming that she has made a few payments, she owes a significant amount of money to her creditors. There is insufficient evidence in the record to show that she has carried her burden of proof to establish mitigation of the government security concerns under Guideline F. Accordingly, Guideline F is found against the Applicant.

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 her 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.l.	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