



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



In the matter of:)
)
) ISCR Case No. 24-00022
)
Applicant for Security Clearance)

Appearances

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

12/17/2024

Decision

DORSEY, Benjamin R., Administrative Judge:

Applicant mitigated the financial considerations security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On February 8, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. Applicant responded to the SOR on February 20, 2024 (Answer) and requested that his case be decided on the written record. He attached documents to the Answer. On April 9, 2024, he changed his election, requested a hearing, and the matter was converted. The case was assigned to me on September 3, 2024.

The hearing was convened as scheduled on November 21, 2024. At the hearing, I admitted Government Exhibits (GE) 1 through 5 without objection. Applicant did not provide documentary evidence for admission at the hearing. I received a transcript (Tr.) of the hearing on December 4, 2024.

Findings of Fact

Applicant is a 47-year-old employee of a government contractor for whom he has worked since October 2017. He served on active duty with the U.S. Marines, including combat deployments, from 1998 until 2012. In 2012, he was medically separated with an honorable discharge. He was married in 1999, separated in December 2016, and divorced in 2023. He has two adult children. One of his children, who lives with him, has a developmental disability, and requires special care. Applicant earned a high school diploma in 1995. (Tr. 23, 36-37, 52-53; GE 1, 5)

In the SOR, the Government alleged that Applicant has seven delinquent debts totaling approximately \$76,000 (SOR ¶¶ 1.a through 1.g). These delinquencies consist of: a retail installment sales contract for a recreational vehicle (RV) (SOR ¶ 1.a for \$42,919); credit cards (SOR ¶ 1.b for \$11,062, SOR ¶ 1.c for \$10,577, SOR ¶ 1.d for \$6,794, and SOR ¶ 1.e for \$4,279); a satellite television provider account (SOR ¶ 1.f for \$218); and an insurance premium (SOR ¶ 1.g for \$141). He admitted the SOR allegations with additional comments. His admissions are adopted as findings of fact. The SOR allegations are established through his admissions and the Government's credit reports. (SOR; Answer; GE 1-5)

Applicant became delinquent on these debts sometime after his separation because he no longer had a dual income, and he was paying additional housing expenses. He also has extra expenses associated with his son, and he assumed the marital debt because he thought it was the right thing to do. I observed Applicant while he testified and found him to be credible and trustworthy. (Tr. 22-24, 52; GE 1, 5)

Prior to the issuance of the SOR, Applicant settled the debts in SOR ¶¶ 1.b, 1.e, 1.f, and 1.g by paying less than the full balance to the creditors. He provided documentary evidence of the settlement of the debts in SOR ¶¶ 1.b and 1.e via receipts from the creditors. He did not provide documentary evidence of his settlement of the debts in SOR ¶¶ 1.f and 1.g because those creditors did not provide receipts. The debts in SOR ¶¶ 1.b, 1.e, 1.f, and 1.g are resolved. (Tr. 22-27, 30-32; Answer; GE 2-5)

The debts in SOR ¶¶ 1.a, 1.c, and 1.d are not yet resolved. Applicant has yet to resolve these debts because he was using his available income to satisfy the aforementioned SOR debts, and to satisfy his delinquent federal tax debt of about \$24,000 from tax years 2017 through 2019. In about two and one-half years, he has satisfied about \$40,000 in delinquent debt. He also had to financially support his son. Applicant credibly testified that he plans to resolve the remaining SOR debts by paying them within the next five years. To resolve the debt in SOR ¶ 1.a, which is by far the largest of his delinquencies, he plans to try to locate the RV that secures the debt so that he can have it sold to reduce the loan balance. As he has not seen the RV since 2016, he acknowledged that finding it is a long shot, but he plans on traveling to the state where it was last located, contacting his insurance company, and the local police. He intends to satisfy this debt regardless of whether he locates the collateral. He has no other delinquent financial obligations. (Tr. 23-24, 27-29, 32-46, 51-56, 69; Answer; GE 2-5)

Applicant became delinquent on federal taxes because he believed that his estranged wife was filing his income tax returns for those tax years, as she had done in the past. Instead, she was solely filing her own income tax returns. In about 2020, when Applicant received a notice from the IRS that he owed back taxes, he made a payment arrangement and satisfied those taxes in about mid-2021. (Tr. 22-24; GE 5)

Applicant testified that he earns about \$7,600 per month after taxes. He is awarded about \$3,600 per month in Veterans Affairs (VA) disability benefits. He claimed that he has about \$2,000 in surplus at the end of each month and has about \$3,100 in two bank accounts. He testified that he will continue to use these surplus proceeds to pay off his delinquencies. In the past few years, he financed the purchase of two cars. One for himself for transportation and one for his son so that his son can gain some independence when he obtains his driver's license. He has not taken a vacation since 2020. (Tr. 55-56, 63-69; Answer; GE 5)

Policies

This case is adjudicated under Executive Order (EO) 10865, *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 adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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."

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 security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

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.

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

- (a) inability to satisfy debts; and

- (c) a history of not meeting financial obligations.

Applicant had seven delinquent debts totaling about \$76,000. Many of these debts have been delinquent for several years. The above-referenced disqualifying conditions are established.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances; and

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

A meaningful track record of debt reform includes evidence that debts have been paid off or resolved. An applicant is not required to show that every debt in the SOR has been paid, and there is no requirement that a plan provide for payments on all outstanding debts simultaneously. ISCR Case No. 14-00504 at 2 (App. Bd. Aug. 4, 2014). Rather, an applicant is required to demonstrate that he or she has "established a plan to resolve his [or her] financial problems and taken significant actions to implement that plan." There is also no requirement that the first debts paid in furtherance of a reasonable debt plan are the SOR debts. ISCR Case No. 07-06482 at 2 (App. Bd. May 21, 2008). Guideline F mitigation does not require the payment of all the SOR debts. Instead, it requires that Applicant remove trustworthiness and reliability concerns raised by those debts. ISCR Case No. 14-00504 at 3.

Applicant's financial delinquencies resulted from conditions, such as a divorce and his child's developmental disability, that were largely beyond his control. He voluntarily resolved four of the seven SOR debts prior to the issuance of the SOR and voluntarily resolved a significant federal income tax debt. He credibly testified that he will continue to pay off his remaining SOR debts. His past resolution efforts inform his willingness and ability to do so. AG ¶¶ 20(b), 20(c), and 20(d) are applicable.

While Applicant's debt resolution efforts have been sluggish, he provided sufficient evidence that he consistently engaged in reasonable and responsible efforts to resolve his debts and is slowly but surely doing so. He has taken significant action to implement his debt resolution plan. He has also shown that he has sufficient financial resources to finish his resolution efforts.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) The nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable

participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline F in my whole-person analysis. I have considered the events that negatively impacted Applicant's finances over the years, and I have analyzed his resolution efforts, which were responsible and reasonable. I have also considered his honorable and lengthy military service, including multiple deployments. Overall, the record evidence leaves me without questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the financial considerations security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraphs 1.a-1.g:	For Applicant

Conclusion

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Benjamin R. Dorsey
Administrative Judge