



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



In the matter of:)	
)	
)	ISCR Case No. 24-00903
)	
Applicant for Security Clearance)	

Appearances

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

12/23/2024

Decision

Dorsey, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations security concerns or the personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On July 15, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations), and Guideline E (personal conduct). He responded to the SOR on August 11, 2024, and requested a decision based on the written record in lieu of a hearing.

The Government submitted its written case on September 6, 2024. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was advised that he had 30 days from his date of receipt to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on October 16, 2024, and he provided no response or objections to the Government's evidence. The case was assigned to me on December 9, 2024. The Government

exhibits included in the FORM, marked as Items 1 through 9, are admitted in evidence without objection.

Findings of Fact

Applicant is a 27-year-old employee of a government contractor for whom he has worked since March 2020. He works as a security guard. He earned a high school diploma in 2014 and has attended some college without earning a degree. He has not been married and has no children. He has held a security clearance since 2015, which he obtained while serving in the Army Reserve from 2015 until August 2023. (Items 3, 9)

In the SOR, under Guideline F, the Government alleged Applicant's two delinquent debts totaling approximately \$48,000 (SOR ¶¶ 1.a and 1.b). The largest of these delinquencies is a retail installment contract for the purchase of solar panels totaling about \$42,801 (SOR ¶ 1.a). The other SOR delinquency is a credit card for \$7,648 (SOR ¶ 1.b). He admitted the Guideline F SOR allegations. His admissions are adopted as findings of fact. The Guideline F SOR allegations are established through his admissions and the Government's credit reports and incident reports. (Items 1, 2, 4-8)

The delinquent retail installment contract in the amount of about \$42,801 listed in SOR ¶ 1.a is not resolved. Applicant opened this account to finance the purchase of solar panels for his home. The creditor charged this debt off in about January 2019. He became delinquent on this debt because he was underemployed and he had his vehicle repossessed, causing him more financial instability. From February 2022 until November 2022, he made seven payments on the solar panel account totaling about \$1,500. He provided documentary evidence of these payments. There is no evidence that he addressed this delinquency again until July 18, 2024, when he provided documents to show that he had pending monthly payments to the creditor of \$540. The documents he provided showed that these pending payments were set for August 2024 through June 2025. He provided no evidence, documentary or otherwise, to show that he made any of these pending payments. (Items 2, 4-9)

The delinquent credit card in the amount of about \$7,648 listed in SOR ¶ 1.b is not resolved. The creditor charged this debt off in about April 2018 without Applicant having made a payment. He became delinquent on this debt because he was underemployed and he had his vehicle repossessed, causing him more financial instability. In his response to the SOR, he provided a document showing that he has scheduled pending monthly payments for an undisclosed amount between August 2024 and January 2025. He provided no evidence, documentary or otherwise, to show that he made any of these pending payments. (Items 2, 4-9)

Applicant has had other delinquent debts that the Government did not allege in its SOR. He became delinquent on another credit card in 2016 for about \$3,000 and resolved the account in September 2020. He also had his vehicle repossessed in 2022. He was able to redeem that vehicle with his sister's assistance and appears to be

current on that account. The DOD Continuous Vetting Program generated three separate incident reports regarding the SOR and unalleged debts in May 2021, March 2022, and April 2024. (Items 4-9)

During Applicant's January 2023 security interview, he told the DOD investigator that he had about \$159 in surplus funds at the end of each month. He provided no evidence that he has undergone financial counseling. (Items 2, 9)

Despite being required to do so, Applicant failed to divulge the delinquent debts identified as SOR ¶¶ 1.a and 1.b on his November 2021 security clearance application (SCA). He also failed to disclose the delinquent credit card that he resolved in September 2020. In his response to the SOR, he admitted that he falsified the SCA in this manner. During his January 2023 security interview, he told the DOD investigator that he could not provide a reason why he failed to disclose these financial delinquencies in the SCA, but that he did not try to conceal that information. There is no evidence that he volunteered these delinquencies before the DOD investigator confronted him with them. (Items 1-3, 9)

In Applicant's response to the SOR, he takes full responsibility for the inaccuracies in the SCA and claimed that he was not aware of the significance of the SCA and the importance of disclosing all relevant financial information. He claimed that he lacked an understanding of the process, which led to what he said was the unintentional omission of information regarding his outstanding debts. He said that after his security interview, he gained a clearer understanding of the importance of accuracy and transparency in maintaining a security clearance. He regrets not having educated himself earlier about the importance of providing accurate information. (Items 1, 2)

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 within DOD 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 two delinquent debts totaling about \$48,000. Both of the accounts have been delinquent for several years. The above 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.

Applicant's financial delinquencies are recent and ongoing. As he has provided documents showing prospective rather than actual payments, he has not provided sufficient evidence that he has resolved or is resolving his SOR debts. It is reasonable to expect Applicant to present documentation about the resolution of specific debts, but he has not. *See, e.g.,* ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). He has not established a track record of financial responsibility. AG ¶ 20(a) does not apply.

Applicant's delinquencies were caused by underemployment. This cause can arguably be seen as being beyond his control. Regardless, because he has not provided sufficient evidence that he is resolving his debts, he has not shown that he acted responsibly under the circumstances with respect to these debts. Moreover, the evidence shows that he made his current payment arrangements with both creditors after the issuance of the SOR. An applicant who acts to mitigate security concerns only after his personal concerns are threatened, such as by the potential loss of his or her security clearance, may not be motivated to follow rules and regulations when his personal interests are not affected. AG ¶ 20(b) does not apply. The lack of evidence of resolution of his SOR debts, and the timing of his effort to make payment arrangements also means that AG ¶ 20(d) does not apply.

Guideline E, Personal Conduct

The security concern for personal conduct is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, 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 ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant deliberately failed to divulge financial delinquencies on the SCA. The above disqualifying condition is applicable.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

(a) the individual made prompt, good faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

The information contained in the January 2023 security interview is equivocal as to whether Applicant divulged his financial delinquencies before the DOD investigator confronted him, and Applicant does not claim that he did so. Therefore, there is insufficient evidence that Applicant divulged the required delinquent debts prior to being confronted with them. AG ¶ 17(a) does not apply.

AG ¶ 17(c) does not apply to Applicant's falsification. Falsification of an SCA is not "minor" because it "strikes at the heart of the security clearance process." ISCR

Case No. 09-01652 (App. Bd. Aug. 8, 2011). Moreover, there is insufficient evidence to show that his falsification is unlikely to recur.

While Applicant acknowledged his falsification in the SCA, he did not provide evidence that he underwent counseling or has taken other positive steps to alleviate the factors that contributed to his falsification. He claimed that he now knows the importance of accuracy and transparency in maintaining a security clearance because he has educated himself about the importance of providing accurate information. However, this claim lacks specificity concerning how he has educated himself. A reasonable inference is that he learned not to falsify information because he tried it and got caught. He has held a security clearance for about nine years and has therefore filled out at least one other SCA. His statement that he now understands that he has to be honest and report accurately implies that he was unaware of that requirement until now. This implication casts doubt on his reliability, trustworthiness, and good judgment. AG ¶ 17(d) does not apply.

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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have considered his military service. I have incorporated my comments under Guideline F and Guideline E in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations or personal conduct 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

Conclusion

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.

Benjamin R. Dorsey
Administrative Judge