



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



In the matter of:)	
)	
)	ISCR Case No. 23-01418
)	
Applicant for Security Clearance)	

Appearances

For Government: Brittany White, Esq., Department Counsel
For Applicant: *Pro Se*

10/30/2024

Decision

GOLDSTEIN, Jennifer I., Administrative Judge

Applicant is alleged to be delinquent on nine debts, in a total exceeding \$34,000. Applicant's unique circumstances show that his history of financial delinquencies does not cast doubt on his current judgment. Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 12, 2023. On August 1, 2023, following a background investigation, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DSCA CAS) issued Applicant a Statement of Reasons (SOR), alleging security concerns under Guideline F, financial considerations. The CAS issued the SOR under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines* (AG), which became effective on June 8, 2017.

Applicant answered the SOR on August 30, 2023, and requested a hearing before an administrative judge. (Answer.) The case was assigned to another administrative judge and then reassigned to me on September 24, 2024. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on September 27, 2024, scheduling the

hearing for October 21, 2024. The hearing was convened as scheduled. The Government offered Exhibits (GE) 1 through 5, which were admitted without objection. Applicant testified on his own behalf and presented two documents, which I marked Applicant's Exhibits (AE) A and B and admitted with no objection. The record was left open until October 28, 2024, for receipt of additional documentation. Applicant presented one document, marked AE C in a timely manner. Department Counsel had no objections to AE C, and it was admitted. DOHA received the transcript of the hearing (Tr.) on October 28, 2024.

Procedural Issue

At hearing, the Government made a motion to amend the SOR to conform to the evidence. Specifically, it asked to change the amount alleged to have been charged off in allegation ¶ 1.h from \$18,074 to \$8,194. Applicant had no objections to the amendment offered and the amendment was made.

Findings of Fact

Applicant admitted to all the allegations in SOR ¶¶ 1.a through 1.i. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 63-year-old employee of a government contractor. He has been employed with the contractor for approximately 19 months. Since 2014, he has worked at least part-time for a ride-sharing service. He also held a full-time job at a casino. In December 2020 he was terminated by the casino after a series of reprimands. He then worked full time for the ride-sharing service. He continues to drive for the ride-sharing service in addition to performing his job with the contractor. He served in the National Guard from 1982 to 1989 and was honorably discharged. He is married and has one adult child and a seven-year-old grandchild. (GE 1; Tr. 20-21, 41-43)

Applicant's credit reports show that he has had financial delinquencies since 2019. His financial situation was exacerbated about the time of his termination from the casino when he took custody of his grandchild for approximately six months. Applicant's daughter has a substance abuse problem, and she is homeless. As a result, Applicant took in his grandchild who was then only four years old. He attributed the reprimands he received at the casino to situations caused by caring for his grandchild. After he was terminated, Applicant supported himself and grandchild by driving for the ride-sharing service. He was unable to work at a more traditional job because he needed to care for his grandchild before and after school. He attributes his on-going financial delinquencies to the expense of taking care of his grandchild. After six months of caring for the child, he relinquished custody to another grandparent because he knew he could not financially support her. (GE 2; GE 3; GE 4; GE 5; Tr. 22-25, 40, 53)

In 2020 Applicant hired a law firm to help him fix his credit issues. He paid the firm \$129 per month for about a year. The firm disputed some of his debts but did not otherwise resolve any of his delinquencies. After a year of payments to the firm, Applicant ended the relationship. (AE A; Tr. 38-39) Applicant hired a second debt-relief firm in late

September 2024. He agreed to pay \$275 monthly (\$137 bi-weekly) to the company to resolve four of his debts, as identified below. He has made two \$137 payments under this plan. (AE B; Tr. 43)

SOR ¶ 1.a alleged that Applicant was indebted on a charged-off account in the amount of \$18,118. Applicant incurred this debt when he purchased a vehicle in 2019. He returned the vehicle to the creditor approximately a year later, after its transmission stopped working. The first major delinquency on this account was reported in September 2020. This debt was resolved in February 2024 through a garnishment from Applicant's paycheck. (GE 2; GE 3; GE 5; AE C; Tr. 25-27, 37)

SOR ¶ 1.b alleged that Applicant was indebted on a collection account in the amount of \$3,318. This debt was for a family cell-phone plan. Applicant canceled the phone service in 2018. Applicant enrolled this debt into his debt-relief plan. (GE 2; GE 3; GE 5; AE Bat 12; Tr. 27-30, 53)

SOR ¶ 1.c alleged that Applicant was indebted on a collection account in the amount of \$2,536. This debt was for a family cell-phone plan with a different carrier. Applicant did not enroll this debt into his debt-relief plan because it is no longer on his credit report. (GE 2; Tr. 29-30)

SOR ¶ 1.d alleged that Applicant was indebted on a collection account in the amount of \$719. This debt was for cable service. Applicant's October 2024 credit report reflects that this debt is paid. It is resolved. (GE 2; GE 5 at 2; AE B; Tr. 30-31)

SOR ¶ 1.e alleged that Applicant was indebted on a charged-off account in the amount of \$545. This debt was for a credit card that Applicant used to finance living expenses. Applicant's October 2024 credit report reflects that this debt is paid. It is resolved. (GE 2; GE 5 at 2; AE B; Tr. 31-32)

SOR ¶ 1.f alleged that Applicant was indebted on a collection account in the amount of \$519. The first major delinquency on this debt was reported in October 2020. This debt is enrolled in his debt-relief plan. (GE 2; GE 3; GE 5; AE B; Tr. 32, 53-54)

SOR ¶ 1.g alleged that Applicant was indebted on a collection account in the amount of \$418. This debt was for another credit card that Applicant used to finance living expenses. This debt is not included in the debt-relief plan. (GE 2; GE 3; GE 5; AE B; Tr. 32)

SOR ¶ 1.h alleged that Applicant was indebted on a charged-off account in the amount of \$8,194. This debt was for an automobile loan. The vehicle was sold at auction and \$8,194 is the balance Applicant owed after the sale. He was unemployed and was not able to pay this debt. This debt is enrolled in his debt relief plan. (GE 2; GE 3; GE 5; Tr. 33-34, 53-54)

SOR ¶ 1.i alleged that Applicant was indebted on an automobile loan in the amount of \$341. This loan is for Applicant's current vehicle. He testified that he is approximately \$200 behind in payments. (GE 2; GE 3 at 4; Tr. 37)

Applicant currently has \$84 in his checking account. He also has almost \$4,000 in his 401(k). (Tr. 51) He makes \$68,000 annually. (Tr. 44) He reports that his wife is currently on leave without pay from her job as she is recovering from an illness but will soon return to work, adding more income to his household. (Tr. 45-48)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988).

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 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, these guidelines are applied 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(a), 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 not drawn 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, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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.

Analysis

Guideline F, Financial Considerations

The security concern relating to the guideline 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 to satisfy debts; and
- (c) a history of not meeting financial obligations.

Since 2018 Applicant has had financial delinquencies that he was unable to resolve. Further, he was unable to make payments towards satisfaction of his debts until recently. The evidence is sufficient to raise these disqualifying conditions.

AG ¶ 20 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 20 including:

- (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 problems occurred under unique circumstances that were beyond his control and he has acted responsibly under the circumstances. Having unexpected custody of his grandchild strained him and caused him to be terminated from his employment. He had difficulties meeting his financial obligations after his termination while trying to care for the child. He could not work a traditional job because he had to look after her. Eventually, he realized that it would be best to give custody to another grandparent. He then was able to get a better paying job with the government contractor. He attempted to resolve his delinquent debts by hiring a law firm, but they took little action. He has paid two debts voluntarily, as listed in SOR ¶¶ 1.d and 1.e. SOR ¶ 1.a was resolved through a garnishment. That means that \$19,382 of his \$34,681 total debt is resolved. Additionally, he established a new debt-relief plan to resolve SOR ¶¶ 1.b, 1. f, and 1.h, and has successfully made two payments under that plan. Only the debts SOR ¶¶ 1.c, 1.g, and 1.i, totaling \$3,295, are unaddressed. He is attempting to act on his debts, as his resources allow.

A security clearance adjudication is an evaluation of an individual's judgment, reliability, and trustworthiness. It is not a debt-collection procedure. ISCR Case No. 0902160 (App. Bd. Jun. 21, 2010). The adjudicative guidelines do not require that an individual make payment on all delinquent debts simultaneously, pay the debts alleged in the SOR first, or establish resolution of every debt alleged in the SOR. He or she need only establish a plan to resolve financial problems and take significant actions to implement the plan. See ISCR Case No. 07-06482 at 2-3 (App. Bd. May 21, 2008). Although Applicant's financial records and finances are not perfect, he has "acted responsibly given his limited resources." ADP Case No. 22-00180 at 3 (App. Bd. April 22, 2024) (citations omitted) He has demonstrated a good-faith effort to address his debts given his unique circumstances, and he has the means to continue to resolve his remaining debts. I find that Applicant's finances do not cast doubt on his current reliability, trustworthiness, and judgment. AG ¶¶ 20(a), 20(b), and 20(d) are established.

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 incorporated my comments under Guideline F in my whole-person analysis. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. I conclude that 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 ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a-1.i:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Jennifer I. Goldstein
Administrative Judge