



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



In the matter of:)
)
) ISCR Case No. 23-02837
)
Applicant for Security Clearance)

Appearances

For Government: John Renehan, Esq., Department Counsel
For Applicant: *Pro Se*

12/17/2024

Decision

Curry, Marc E., Administrative Judge

Applicant presented insufficient evidence of the progress that he has made to resolve his delinquent debt. Under these circumstances, Applicant failed to mitigate the financial considerations security concerns. His application for a security clearance is denied.

Statement of the Case

On January 2, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action under Executive Order (EO) 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 Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On March 4, 2023, Applicant answered the SOR admitting all the allegations except subparagraph 1.d, and he requested a decision based on the evidence on file rather than a hearing. On May 7, 2024, Department Counsel prepared a File of Relevant Material (FORM), setting forth the Government's arguments against Applicant's security

clearance worthiness. The FORM contains seven attachments, identified as Item 1 through Item 7.

Applicant received a copy of the FORM on May 17, 2024, He was given 30 days to file a response. On June 24, 2024, Applicant filed a four-page reply, whereupon the case was assigned to me on September 4, 2024.

Findings of Fact

Applicant is a 34-year-old single man with one child, age eight. He earned an associate degree in 2019. (Item 4 at 10) He then enrolled in college, attending through January 2022. (Item 7 at 1) He has been working for a defense contractor as an engineering technician since 2023. (Item 4 at 10) He served in the U.S. Navy from 2012 to 2016 before being honorably discharged. (Item 4 at 15)

Per the SOR, Applicant owes seven creditors approximately \$26,270 in delinquent debt. Applicant attributes his financial difficulties to a lengthy period of unemployment from 2016 to 2022 while he was pursuing higher education. (Item 7 at 6) Although he was receiving stipends to attend college, it was not enough for him to keep up with his expenses. (Item 7 at 2)

The debt alleged in subparagraph 1.a, totaling \$17,925, is owed to a credit union. Applicant contends that he has been making monthly \$50 payments since August 2023. (Item 7 at 6)

The debt alleged in subparagraph 1.b is a delinquent credit card, totaling \$3,327. It has been delinquent since September 2019. Applicant contends that he has been making \$50 monthly payments since August 2023. (Item 7 at 6)

The debt alleged in subparagraph 1.c, totaling \$2,618, is owed to a credit union. It has been delinquent since March 2020. Applicant has not made any payments towards the satisfaction of this debt, but intends to do so in the future, and he intends to have the debt satisfied by 2028. (Item 7 at 8)

Applicant contends that he has satisfied the debt, alleged in subparagraph 1.d, totaling \$917, but he has been unable to obtain supporting documentation. (Item 3 at 2)

The debt alleged in subparagraph 1.e is a credit card account totaling \$677. Applicant contends that he has been making \$50 monthly payments since May 2023. (Item 7 at 9)

The debt alleged in subparagraph 1.f, totaling \$623, is a delinquent credit card account. As of the date of Applicant's subject interview in August 2023, he had not begun making payments. (Item 7) He did, however, anticipate satisfying it by 2025. (Item 7 at 10)

The delinquency alleged in subparagraph 1.g, totaling \$183, is owed to an insurance company. (Item 7 at 10) This debt remains outstanding.

Applicant earns a salary of approximately \$55,000 per year. (Reply at 2) He has been receiving disability compensation in the amount of \$1,577 per month from the Department of Veterans Affairs (the VA) since December 2023. (Reply at 4) As of May 31, 2024, Applicant had approximately \$26,600 deposited in a bank account. (Reply at 3) Applicant contends that his savings demonstrates that he is not a financial security risk. (Reply at 1)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (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 required to be considered 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2 (a), the entire process is a conscientious scrutiny of several 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 ¶ 1 (d) requires that "[any 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. 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 applicant or proven by Department Counsel. . . ." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the ¶¶ totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline F: Financial Considerations

The security concern under this Guideline states, "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." (AG ¶ 18)

Applicant's history of financial problems triggers the application of AG ¶ 19(a), "inability to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations." Applicant attributes his financial problems to limited financial means between 2016 and 2022 when he was focusing on obtaining degrees in higher education.

The following mitigating conditions under AG ¶ 20 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;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; 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 appear to have been caused, not by any profligate spending, but by his lack of income while enrolled in college. Although these circumstances were partially beyond his control, he still has the burden of establishing that he addressed the situation responsibly, taking such steps as enrolling in financial counseling, developing a payment plan, communicating with his creditors, or making some other good-faith effort to resolve the debt. Applicant provided no such evidence, despite first promising to do so more than a year ago during his August 2023 interview with an investigative agent.

Applicant provided evidence of significant money in his savings account, together with a pay stub and proof that he is receiving monthly disability pay through the VA. However, this evidence, though favorable, does not carry the burden of establishing that he has been responsibly paying, or has developed a plan to satisfy the financial obligations alleged in the SOR. He did not provide supporting documentation of his history of alleged payments to various creditors. Under these circumstances, AG ¶ 20(b) applies partially, with respect to Applicant's debt being caused by circumstances beyond his control, but none of the remaining mitigating conditions apply. Applicant failed to mitigate the financial considerations security concern.

Whole-Person Concept

I considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, discussed above, and they do not warrant a favorable conclusion.

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.g:	Against Applicant

Conclusion

Considering all the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Marc E. Curry
Administrative Judge