



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



In the matter of:)
)
) ISCR Case No. 24-00902
)
Applicant for Security Clearance)

Appearances

For Government: Jeff Kent, Esq., Department Counsel
For Applicant: *Pro se*

02/03/2025

Decision

Curry, Marc E., Administrative Judge:

Although Applicant’s financial problems were caused, in part, by circumstances beyond his control, he did not present any evidence of what progress he has made to resolve them. 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 July 3, 2024, the Department of Defense Counterintelligence and Security Agency Consolidated Adjudications 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 July 24, 2024, Applicant answered the SOR, admitting all the allegations and requesting a decision based on the evidence in the file rather than a hearing. On August 21, 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 September 5, 2024, He was given 30 days to file a response. Applicant did not file a response, whereupon the case was assigned to me on December 6, 2024.

Findings of Fact

Applicant is a 49-year-old married man He is a high school graduate and has earned some college credits. Since June 2020, he has been working as a cable harness technician.(Item 2 at 12-14)

Per the SOR, Applicant incurred approximately \$28,000 of delinquent debt. Of the 24 debts alleged, the Government withdrew two of them (subparagraphs 1.w and 1.x) because they are duplicates of subparagraphs 1.m and 1.f, respectively.

Applicant attributes the incurrence of his delinquent debts to several circumstances beyond his control, including a job loss, his mother's cancer diagnosis, unexpected job transfers that required frequent relocations, and his wife's shopping addiction. (Item 4 at 12; Item 7 at 2) During an interview in August 2023 with an investigative agent, he stated that his wife's shopping addiction had been resolved, and that he did not anticipate any more abrupt relocations. (Item 7 at 4) Moreover, he stated that per his budget, he had approximately \$8,000 of monthly discretionary income available to resolve debt, and that he anticipated satisfying all of his delinquencies through payment plans within 12 months. (Item 7 at 5)

In February 2024, approximately six months after Applicant's investigative interview, he completed a set of interrogatories from DCSA CAS. He had not begun making any payments on his delinquent debts. In addition, he provided an updated written copy of his budget, under which he had \$3,570 in monthly discretionary income. (Item 4 at 13) Currently, all the debts remain outstanding, and Applicant has presented no evidence of what, if any, steps he has taken to resolve them.

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 "[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. 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 considering 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

Under this concern, "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."

The following mitigating conditions under AG ¶ 20 are potentially applicable:

(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 attributed his delinquent debt to several circumstances beyond his control, including his wife’s shopping addiction, frequent relocations, a job loss, and his mother’s major illness. However, despite promising to satisfy his delinquent debts by August 2024, he has yet to provide any evidence of steps taken to organize his debts, reach out to creditors, and to begin paying them. Under these circumstances, AG ¶ 20(d) is inapplicable and AG ¶ 20(b) is only applicable insofar as circumstances beyond Applicant’s control contributed to his financial problems. Absent any evidence of steps taken to pay the delinquencies, and considering the length of time that these debts have remained delinquent, I conclude Applicant has failed to mitigate the financial considerations security concerns.

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.v:	Against Applicant
Subparagraphs 1.w – 1.x:	WITHDRAWN

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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Marc E. Curry
Administrative Judge