



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



In the matter of)
)
) ISCR Case No. 24-01558
)
Applicant for Security Clearance)

Appearances

For Government: George Hawkins, Esq., Department Counsel
For Applicant: *Pro se*

08/06/2025

Decision

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, and exhibits, Applicant did not mitigate financial consideration concerns but mitigated personal conduct concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

Statement of the Case

On December 27, 2024, the Defense Counterintelligence and Security Agency (DSCA) Consolidated Adjudications Services (CAS) sent a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations and personal conduct guidelines the DSCA CAS could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); *Defense Industrial Personnel Security Clearance Review Program*, DoD Directive 5220.6 (January 2, 1992) (Directive); and Security Executive Agent Directive 4,

establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on January 28, 2025, and elected to have his case decided on the written record in lieu of a hearing. He received the File of Relevant Material (FORM) on April 13, 2025, and interposed no FORM objections. He did not respond with new information. The case was assigned to me on July 2, 2025.

Summary of Pleadings

Under Guideline F, Applicant allegedly accumulated five delinquent debts exceeding \$38,000. Allegedly, these debts have not been paid and remain unresolved and outstanding.

Under Guideline E, Applicant allegedly falsified his electronic questionnaires for Investigations processing (e-QIP) of December 2023, by (a) deliberately failing to disclose his past use of marijuana when responding to section 23 and (b) deliberately failing to disclose his March 2007 felony drug possession conviction when responding to section 22..

In Applicant's response to the SOR, he denied most of the allegations without explanations or clarifications. He admitted only the allegations covered by SOR ¶ 2.a.

Findings of Fact

Applicant is a 44-year-old employee of a defense contractor who seeks a security clearance. The admitted allegations are incorporated and adopted as relevant and material findings. Additional findings follow.

Background

Applicant married in June 2010 and has no children. (GE 3) He earned a bachelor's degree in May 2003 and a master's degree in May 2006. (GE 3) He reported no military service.

Since October 2023, Applicant has been employed as a part-time contractor for his current employer, who is his sponsor for a security clearance. (GEs 3 and 5) .Contemporaneously with his current employment he reported self-employment between April 2013 and December 2023. (GE 3) He reported unemployment between February 2018 and June 2019. (GE 3) He has never held a security clearance. (GE3)

Applicant's finances

Between 2018 and 2022, Applicant accumulated five delinquent consumer accounts exceeding \$38,000. He attributed his debts to insufficient income to satisfy all of his debts before they became delinquent. (GE 5)

Applicant's compiled credit reports from 2024 and 2025 reveal no tangible progress in addressing his debts covered by the SOR. (GEs 6-8) While his personal interview (PSI) responses include commitments to address his listed debt delinquencies in furtherance of his plans to buy a home,(GE 5), he has provided no tangible evidence of. paying or otherwise resolving any of the debts listed in the SOR. (GEs 4-8)

According to Applicant's October 2024 personal financial statement, he nets monthly income of \$9,200, incurs monthly expenses of \$8,379, and accrues monthly debts of \$125 associated with two non-SOR debts. (GE 4) This leaves him with a reported monthly remainder of \$821. Because he provided no financial information as to how his monthly remainder is being utilized, it remains unclear as to how he employs his available disposable funds.

Applicant's e-QIP omissions

Asked to complete an e-QIP in December 2023, Applicant omitted his past marijuana use within the past seven years and felony drug possession arrest and conviction in March 2007. (GEs 3 and 9) His falsification denials and explanations of his marijuana arrest and felony drug possession conviction are not enough to avert drawn inferences of knowing and willful omission.

When afforded an opportunity to disclose his past marijuana use and felony illegal drug possession conviction in his scheduled March 2024 PSI, Applicant voluntarily opened up about his drug activity (marijuana and hallucinogenic mushrooms) and fully disclosed his past marijuana and mushroom use and felony marijuana possession arrest and conviction. (GE 5) Applicant made his disclosures without any detectable confrontation or prompting. Applicant's voluntary PSI disclosures are unchallenged and accepted.

Policies

By virtue of the jurisdictional principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a right to a security clearance." As Commander in Chief, "the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527.

Eligibility for access to classified information may only be granted "upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Application approvals for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and

commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These AG guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. The AG guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

Financial Considerations

The Concern: Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

Personal Conduct

The Concern: 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 ¶ 15.

Burdens of Proof

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours.

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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994).

The AGs presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Security concerns are raised over Applicant's accumulation of delinquent debts over a considerable period without documented evidence of addressing these debts with the resources currently available to him. Additional security concerns are raised over his falsification of the e-QIP he completed in 2024, where he failed to disclose his many years of marijuana use and 2007 felony conviction of possession of illegal drugs.

Financial concerns

Applicant's accumulated delinquent debts warrant the application of three of the disqualifying conditions (DC) of the financial consideration guidelines. DC ¶¶ 19(a), "inability to satisfy debts"; 19(b), "unwillingness to satisfy debts regardless of the ability to do so"; and 19(c), "a history of not meeting financial obligations."

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder's demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving an applicant's debt delinquencies are critical to an assessment of the applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015); ISCR Case No. 14-00221 at 2-5 (App. Bd. June 29, 2016).

Applicant is entitled to partial application of mitigating condition (MC) ¶ 20(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," in instances associated with his reported unemployment. However, he is unable to meet the mitigation requirements of the second prong of MC ¶ 20(b) ("and the individual acted responsibly under the circumstances").

Without documented evidence of Applicant's paying or otherwise resolving his current debt delinquencies, other potentially available mitigating conditions are not available to him. In the past, the Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating actions taken to resolve financial problems, whether the issues relate to back taxes or other debts and accounts. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020). Afforded opportunities to do so, Applicant has provided insufficient information on the status of his debts and available financial resources to address them .

Personal Conduct concerns

More concerning is Applicant's omission of his marijuana use and 2007 felony drug possession conviction in the e-QIP he completed in December 2023. Drawn inferences of knowing and willful omission covered illegal drug possession under federal law that are material to the Government investigation of Applicant's security clearance eligibility. Applicable to Applicant's e-QIP omissions is DC ¶ 16(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 national security eligibility or trustworthiness, or award fiduciary responsibilities."

Voluntary disclosures of adverse information are always encouraged. Without any evidence of confrontation or prompting by the interviewing OPM investigator in his ensuing 2025 PSI, Applicant fully disclosed his past marijuana use. His documented voluntary corrections of his e-QIP omissions when asked about his past use of marijuana entitle him to the mitigation benefits of MC ¶ 17(a), "the individual made prompt, good faith efforts to correct the omission, concealment, or falsification before being confronted with the facts,"

With no bright line definitions of the term "prompt" to work with, the Appeal Board recently found an applicant's two-month delay in making corrections to be reasonable under all of the circumstances considered. See ISCR Case No. 22-02601 at 5 (App. Bd. Feb. 22, 2024). Whether four months of elapsed time preceding voluntary disclosure can be stretched to meet the Appeal Board's reasonableness test for satisfying the "prompt" prong of MC ¶ 17(a) is still an open question. In previous Appeal Board decisions, the Board has drawn more restrictive definitions of the term "prompt" in situations where the applicant was a facility security officer (FSO) who was in a position to know and respect the importance and urgency of making timely disclosures. *Compare* DISCR Case No. 93-1390 at 5-7 (App. Bd. Jan. 27, 1995) And, clearly the circumstances in this 1995 Appeal Board decision are distinguishable from the facts in Applicant's case. Unlike in the 1995 decision, Applicant was not a facility clearance officer (FSO) with a clearance.

In Applicant's case, his voluntary disclosures of his marijuana use and 2007 felony conviction for marijuana possession were made in the first scheduled opportunity he had to speak to a government investigator after completing his 2023 e-QIP. With a DOHA policy of encouragement of voluntary disclosures and the absence of any bright lines to assess the limits of the prompt prong of MC ¶ 17(a), Applicant's credited voluntary disclosures in his PSI are construed to satisfy MC ¶ 17(a).

Whole-person assessment

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether his history of marijuana use and re-QIP omissions of his marijuana use and 2007 felony marijuana possession arrest and conviction. When taken together contextually, his payment lapses associated with his listed SOR debts

reflect collective judgment lapses incompatible with his holding a security clearance. Only his coming forward with his voluntary disclosures of his past marijuana use and 2007 felony arrest and conviction contain enough evidence of corrective actions taken by Applicant mitigate raised security concerns.

From a whole-person perspective, Applicant has not established enough independent probative evidence of his overall, trustworthiness, reliability, and good judgment required of those who seek eligibility to hold a security clearance or sensitive position. While he is deserving of considerable credit for the contributions he has made to the defense industry, he has not produced enough positive reinforcements of his overall honesty and trustworthiness to facilitate safe predictions he is at no risk of recurrent candor lapses.

I have fully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude that financial considerations concerns are not mitigated. Personal conduct security concerns are mitigated. Eligibility for access to classified information is denied.

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:

GUIDELINE F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.a-1.e:	Against Applicant
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GUIDELINE E (PERSONAL CONDUCT):	FOR APPLICANT
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Subparagraphs 2.a-2.b:	For Applicant
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Conclusion

In light of all of the circumstances presented by the record in this case, 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.

Roger C. Wesley
Administrative Judge