



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



In the matter of:

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) ISCR Case No. 24-01610
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)

Applicant for Security Clearance

Appearances

For Government: Troy Nussbaum, Esq., Department Counsel

For Applicant: *Pro se*

09/05/2025

Decision

HOGAN, Erin C., Administrative Judge:

Applicant mitigated the security concerns raised under Guideline F, Financial Considerations. Eligibility for access to classified information is granted.

Statement of the Case

On October 18, 2023, Applicant completed and signed an Electronic Questionnaires for Investigations Processing (e-QIP). On September 17, 2024, the Department of Defense (DOD) Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; 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.

The SOR detailed reasons why the DCSA CAS did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Specifically, the SOR set forth security concerns arising under Guideline F, Financial Considerations. On October 16, 2024, Applicant responded to the SOR and requested a hearing before an administrative judge. On December 3, 2024, Department Counsel was ready to proceed. The case was assigned to me on April 2, 2025. On May 16, 2025, DOHA issued a notice of hearing, setting the hearing for May 21, 2025. The hearing was held as scheduled via video-teleconference.

During the hearing, Department Counsel offered two exhibits, Government Exhibits (GE) 1 - 2, which were admitted without objection. Applicant offered one exhibit which was admitted as Applicant Exhibit (AE) A (9 pages), without objection. The record was held open until June 11, 2025, to allow Applicant to submit additional exhibits. At Applicant's request the time allotted for submitting documents was extended to July 9, 2025. He timely submitted a five-page exhibit which was admitted as AE B, without objection. On June 2, 2025, DOHA received a transcript (Tr.) of the hearing. The record closed on July 9, 2025.

Some details in the decision were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admits all of the allegations in the SOR. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 35-year-old employee of a defense contractor seeking to obtain a security clearance. He has worked for his current employer since July 2022. He served on active duty in the United States Army from November 2013 to October 2018. He achieved the rank of Staff Sergeant (E-6) but was demoted to the rank of Private (E-1) before he left active duty. He was discharged from active duty with a discharge characterized as under other than honorable conditions (UOTHC). He accepted an offer to resign in lieu of being court-martialed. He has a high school diploma and he attended some college. He is divorced and has four children, ages 13, 8, 7 and 6. (Tr. 17-20; GE 1)

Financial Considerations

The SOR alleges six debts, which include: a \$5,553 charged-off account (SOR ¶ 1.a: GE 2 at 2; GE 3 at 1); a \$2,468 charged-off military exchange credit card account (SOR ¶ 1.b: GE 2 at 2; GE 3 at 4); a charged-off military federal credit union in the approximate amount of \$2,133 (SOR ¶ 1.c: GE 2 at 2; GE 3 at 4-5); a \$1,958 delinquent account that was placed for collection (SOR ¶ 1.d: GE 2 at 3; GE 3 at 3); a \$1,377 delinquent debt owed to a university that was placed for collection (SOR ¶ 1.e: GE 2 at 3; GE 3 at 4); and a \$22,588 debt owed as a result of an automobile repossession that was charged-off. (SOR ¶ 1.f: GE 2 at 3).

In his response to the SOR, Applicant said he was an outstanding soldier when he served in the US Army. He achieved the rank of E-6 in four years. He deployed to Afghanistan in 2015. As a result of a sequence of events, his career was cut short and his security clearance was revoked. His life has been a hardship since being discharged from active duty. He feels he was robbed and stripped of everything he worked for. He has been trying to make ends meet. He believes a security clearance will help him get a better job so he can provide for his family and satisfy his current debt. He claims he would not have incurred the debts if his career was not cut short, which was beyond his control.

During the hearing, Applicant explained that when he was on active duty, he was accused of housing allowance fraud for accepting Basic Allowance for Housing (BAH) with dependents after his divorce. He claims he was granted a waiver to keep the BAH with dependent rate because he was still responsible for paying his apartment lease, which he entered into while married. The military alleged he received over \$30,000 in benefits that he was not entitled. In addition, a female alleged that he raped her, which he denied. Finally, he was alleged to have committed travel card fraud. He was issued a per diem travel card which he did not use while on temporary duty. He used it after he returned from temporary duty to pay for gas. The total amount spent was \$200. He testified that he received Article 15 nonjudicial punishment for travel card fraud. He was reduced in rank from E-6 to E-1. His security clearance was revoked. He was offered a Chapter 10 discharge in lieu of court-martial. He got scared so he accepted the offer. (Tr. 23-32)

It should be noted that the above misconduct was not alleged in the current SOR. As such, the information will not be considered under matters of disqualification. It will be considered under matters of the whole person and extenuation and mitigation.

During the hearing, Applicant mentioned that he had applied to the Veteran's Administration (VA) for disability years ago. The VA recently granted disability to Applicant. He recently received a check for \$91,000, which included back pay. Applicant purchased a used 2021 truck for \$45,000 because he needed a more reliable car. His previous car was a 2003 model and was beginning to have issues. He paid \$26,000 cash and financed the rest of the purchase. His car payments are \$400. (Tr. 34-35) After receiving the disability back pay, he was also able to start resolving the debts alleged in the SOR.

The current status of the SOR debts is:

SOR ¶ 1.a: \$5,553 delinquent debt that was charged-off: The debt was settled for less than the full balance. It is resolved. (Tr. 36-38; AE B at 3)

SOR ¶ 1.b: \$2,468 delinquent military exchange account that was charged off: Applicant provided proof that the debt was resolved. (Tr. 39; AE B at 2)

SOR ¶ 1.c: \$2,133 delinquent military credit union account that was charged off: Applicant settled this account for less than the full balance. He paid \$853. The debt is resolved. (Tr. 39-41; GE 3 at 4-5; AE A at 4)

SOR ¶ 1.d: \$1,958 delinquent account that was placed for collection: Applicant settled the account for less than the full balance. He paid \$979.15 on May 19, 2025. The debt is resolved. (Tr. 41; AE A at 1)

SOR ¶ 1.e: \$1,377 delinquent account owed to a university that was placed for collection: Applicant paid the account in full on June 15, 2023, in the amount of \$1,177.20. The debt is resolved. (Tr. 42; AE A at 2 and 5; AE B at 4)

SOR ¶ 1.f: \$22,588 charged-off car loan: Applicant co-signed this car loan for a woman who he dated after his divorce. They broke up and the woman did not make payments on the car. He has not had contact with her for years. He has not made any payments towards this debt but hopes to in the future. The debt is unresolved. (Tr. 44-47)

Applicant's net monthly income is approximately \$1,820. He also receives a monthly disability payment of \$1,395. Aside from his \$400 car payment, his monthly expenses are unknown. (Tr. 53)

After his discharge from active duty, Applicant was unemployed from October 2018 to August 2021. He went back to school to become a barber but it was not enough to make ends meet. He intends to submit paperwork to upgrade the characterization of his discharge from the Army. (Tr. 18, 21; GE 1 at 14)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only 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.

Eligibility 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 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. Thus, a decision to deny a security clearance should not be construed to suggest that it is based, in whole or in part, on any express or implied determination about an applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

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 guidelines 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 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

Guideline F, Financial Considerations

AG ¶ 18 expresses the security concern for financial considerations:

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. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant has a history of financial problems and delinquent debts. The SOR alleged six delinquent accounts, an approximate total of \$36,077. Of that amount, \$13,489 was from four delinquent consumer debts and the largest debt was the \$22,588 car repossession. Applicant agreed to be a co-signer on this debt. AG ¶¶ 19(a) and 19(c) are applicable.

The guideline also includes conditions that could mitigate security concerns arising from financial difficulties. I have considered all of the mitigating conditions under AG ¶ 20 and the following potentially apply:

- (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.

AG ¶ 20(b) partially applies. Applicant's involuntary discharge from the military resulted in a period of unemployment and hardship. The period of unemployment was a circumstance beyond his control. This mitigating condition is given less weight because the ultimate cause of the unemployment was his past misconduct in the Army, which resulted in his UOTHC discharge.

AG ¶ 20(d) applies. Once Applicant received his disability back pay, he was able to begin to resolve his delinquent debts. At the close of the record, he provided proof that he resolved four of the five delinquent accounts that are alleged in the SOR. He demonstrated a good-faith effort to resolve his delinquent accounts. The remaining SOR debt is the \$22,588 automobile repossession. Applicant was a co-signer on the loan. He is unable to locate the woman friend who was the principal signer of the loan. He intends to resolve this debt in the future. While a promise to pay in the future is usually not given

much weight in security clearance proceedings, Applicant's resolution of four of the five debts alleged in the SOR demonstrate that he intends to resolve his delinquent debts.

Overall, Applicant met his burden of proof to mitigate the concerns raised under financial considerations.

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 the 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines, each of which is to be evaluated in the context of the whole-person." My comments under Guideline F are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

I considered Applicant's employment with a DOD contractor since July 2022. I also considered his five years of active-duty service in the Army. I considered his deployment to Afghanistan in 2015. I also considered his serious misconduct which resulted in his discharge from Army with a discharge characterized as UOTHC in 2018.

Applicant has not been involved in additional misconduct since his discharge in 2018. He trained to become a barber. The income was not as good as he thought so he sought employment with a DOD contractor. I considered that he has four children. I considered that upon receiving the disability back pay, Applicant took steps towards resolving his delinquent accounts. While he has one delinquent debt remaining, his resolution of the four other debts alleged in the SOR show that he is serious about resolving his delinquent debts. The security concerns raised under Financial Considerations are mitigated.

Formal Findings

Formal findings 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: FOR APPLICANT

Subparagraphs 1.a - 1.e: For Applicant

Conclusion

In light of all of the circumstances in this case, it is 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 granted.

Erin C. Hogan
Administrative Judge