



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



## Appearances

For Government: Aubrey De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

09/25/2025

## Decision

BORGSTROM, Eric H., Administrative Judge:

Applicant did not mitigate the foreign influence and financial considerations security concerns. Eligibility for access to classified information is denied.

## **Statement of the Case**

On September 20, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline B (foreign influence) and Guideline F (financial considerations). The DCSA acted 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 adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

In Applicant's October 11, 2024 response to the SOR (Answer), he admitted, with explanations, SOR ¶¶ 1.a.-1.d., and he denied SOR ¶ 2.a. He attached seven exhibits, which he marked as Applicant Exhibits (AE) A through G. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On December 12, 2024, the Government was ready to proceed to a hearing. I was assigned this case on April 10, 2025. On June 5, 2025, DOHA issued a notice scheduling the hearing for July 7, 2025, by video teleconference. The hearing proceeded as scheduled. The Government proffered two evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 and 2, without objection. The Government also offered materials for administrative notice as to the security concerns regarding Kenya, which I admitted for administrative notice (AN I). Applicant testified and proffered 10 exhibits, which I admitted as AE A through J, without objection. At Applicant's request, I held the record open until August 7, 2025. I received the hearing transcript on July 17, 2025. Due to technical difficulties in transmitting and receiving the post-hearing submissions, Applicant's 25 post-hearing exhibits were not received until September 18, 2025, and I admitted them into evidence as AE K through AE II, without objection. The record closed on September 18, 2025.

### **Findings of Fact**

Applicant is 45 years old. He was born in Kenya, where he graduated from high school in 1999 and earned an associate degree in 2007. He married his first wife in Kenya in 2009, and they had three children. They separated in 2013 and divorced in 2014. He married his second wife, a U.S. citizen, in April 2015. His three children from his first marriage, now ages 18, 14, and 11, reside with him and his second wife in the United States. He also has a two-year-old child from another relationship, and this child does not reside with him. (GE 1, GE 3; AE F, AE HH; Tr. 26-31)

From August 2003 to September 2007, Applicant served in the Kenyan Army as an aircraft mechanic. He achieved the rank of senior private. He entered the United States in November 2007, trained for a month with a DOD contractor, and then returned overseas as a full-time employee of that DOD contractor. Between December 2007 and about 2013, he worked for a DOD contractor in Iraq, Afghanistan, and Africa, and he spent little time in the United States. He became a naturalized U.S. citizen in March 2021. (GE 1; AE D, AE E, AE HH; Tr. 27-29)

From August 2015 to December 2017, Applicant was employed as an industrial waste technician for a private company in the United States. From December 2017 to February 2019, he was a hazardous materials truck driver. He voluntarily left this employment due to injuries suffered from a vehicle accident unrelated to his employment. From March 2019 to January 2022, he was employed full time as a hazardous materials technician and truck driver for a private company. From February 2022 to September 2024, Applicant was employed as a lead mechanic for a DOD contractor, and he was stationed overseas. He has had no security violations while employed as a DOD contractor. Since December 2024, he has been working as a senior generator technician for a private company in the United States. (GE 1, GE 3; Tr. 24, 50-51)

The SOR alleges foreign influence security concerns based on Applicant's parents and four brothers, who are citizens and residents of Kenya (SOR ¶ 1.a.); three of his brothers who serve in the Kenyan Army (SOR ¶ 1.b.); his sister who is a citizen of Kenya

(SOR ¶ 1.c.); and his best friend and cousin who are citizens of and reside in Kenya (SOR ¶ 1.d.). Applicant admitted all of these foreign contacts in his Answer. (Answer)

## **Foreign Influence**

**SOR ¶ 1.a.** Applicant's parents are citizens of Kenya. They reside in a rural village in Kenya. His father served for approximately 37 years in the Kenyan Army, as a cook, and he retired as a sergeant. He currently receives a military pension. Both of Applicant's parents are now retired and live on an ancestral farm. Applicant has monthly telephonic contact with his father, who is in declining health. He speaks with his mother once or twice a week. He provides approximately \$150-200 a month in financial support to his parents. (GE 1, GE 3; Tr. 33-37, 44, 48)

Applicant's three eldest children were born in Kenya. They obtained U.S. legal permanent resident (LPR) status in about 2021, after Applicant became a naturalized U.S. citizen. His children resided with Applicant's parents from 2014 to 2021 in Kenya before moving to live with Applicant and his second wife in the United States. The children's mother died in 2018, and their maternal grandparents reside in Kenya. (GE 1, GE 3; Tr. 30, 50)

**SOR ¶ 1.b.** Applicant has four brothers, who are citizens and residents of Kenya, with whom he maintains telephonic and electronic (texts and emails) contact approximately once every month or two months. All four brothers are married. Brothers #1, #2, and #4 currently serve in the Kenyan Army as sergeants. Brother #3 is a farmer and resides with Applicant's parents. (GE 1, GE 3; Tr. 35, 37, 46)

**SOR ¶ 1.c.** Applicant's one sister is a citizen of Kenya, and she resides in the United States. She maintains U.S. LPR status. Applicant has weekly in-person, telephonic, and electronic contact with her. She is employed as a caregiver, and she is married. (GE 1; Tr. 31-32)

**SOR ¶ 1.d.** Applicant's best friend and his cousin are both citizens and residents of Kenya. Neither is employed by the Kenyan government or military. Applicant has contacts with these individuals about twice a year. (GE 3; Tr. 38-39)

Applicant traveled to Kenya for lengthy trips to visit his family in April 2016, August 2017, February 2018, April 2019, January 2021, May 2021, and June 2022. He has constructed a home on his parents' property where he stays during his visits. He estimated the value of the home as approximately \$20,000. In June 2024, Applicant, his wife, and his three eldest children traveled to Kenya to visit family, including his children's maternal grandparents. (GE 3; Tr. 40-42, 53)

## **Financial Considerations**

Applicant did not disclose any delinquent Federal income taxes on his January 2023 security clearance application (SCA). In April 2023, he was interviewed three times

by an authorized investigator on behalf of the Office of Personnel Management (OPM). During those interviews, he admitted that he had received correspondence from the Internal Revenue Service (IRS) in 2021 about miscalculations and tax liabilities for tax years (TY) 2019 and 2020. He claimed to have established an IRS installment agreement and to have engaged a tax-resolution firm (TRF) to negotiate a settlement with the IRS. He explained that he had supplemented his income by driving for two ride-share companies between 2016 and January 2022. His tax preparer had listed his vehicle expenses and his mileage as business expenses, essentially double counting, on the TY 2019 and TY 2020 returns, leading to the miscalculation of his Federal income tax liability. (GE 1, GE 3; Tr. 56-59)

In November 2023, the IRS filed a tax lien against Applicant and his wife in the approximate amount of \$59,494 for TY 2019, 2020, and 2021. (GE 3)

On January 30, 2024, Applicant responded to DOHA interrogatories regarding his delinquent Federal income taxes. He claimed to have timely filed his income tax returns but that his tax preparer had incorrectly calculated his tax liability:

I have always filed my taxes every year. Problem occurred [sic] when my taxes were filed wrongly because I was working and doing Uber at the same time. My accountant claimed my expenses and uber mileage all together instead of claiming one of the two. This was done continuously from 2020, 2021, and 2022 until IRS caught it.

He added that he had engaged a company to appeal his Federal tax liability with the IRS. He was also prepared to commit to paying \$1,000 monthly to the IRS beginning in January 2024. (GE 2)

At the hearing, Applicant testified that, after he received correspondence from the IRS, he engaged a total of four TRFs; however, he only provided engagement documentation for one firm (TRF2) and only demonstrated payments to one firm (TRF 1). Applicant admitted that he was uncertain what actions TRF1 would perform on his behalf, and he later felt that he had been scammed by TRF1. There is no evidence in the record as to the scope of TRF1's engagement. His checking account statements for January to June 2022 show 10 payments totaling approximately \$9,300 to a company he identified as TRF1. (AE L-O, S, BB; Tr. 60-61)

There is documentary evidence of a \$225 payment to the IRS in March 2022, and the above payments were made to TRF1. There is no evidence of any payments to the IRS or TRF1 between July 2022 and January 2024. On January 10, 2024, Applicant engaged a second tax-resolution firm (TRF2) to "mediate all communications" with tax revenue authorities on Applicant's behalf. The engagement letter does not specifically discuss negotiating IRS installment agreements. Rather, TRF2 correspondence notes that it is critical for its clients to maintain all payments and compliance with the IRS. As of January 23, 2024, Applicant owed \$62,604 to the IRS for TY 2019, 2020, and 2021. TRF2 noted that if Applicant was struggling to pay his current IRS installment agreement, he

could provide documentation to TRF2 for an alternative resolution. By email dated January 29, 2024, Applicant queried TRF2 if he could start making payments directly to the IRS. There is no evidence of any payments made to TRF2, and payments to the IRS began in February 2024. (AE K, AE P, AE FF)

As of July 18, 2024, TRF2 was working on “extended holds against enforced collection actions while [it] work[s] with [Applicant] to obtain the requested financial information in order to proceed with resolution of the taxes owed.” TRF2 also sought an additional \$2,000 for its anticipated services. There is no evidence that Applicant paid the \$2,000 and continued working with TRF2. Applicant testified that he believed he “fell into a scam” with TRF2 because he was paying \$600 to TRF2 and no monies were being paid to the IRS. There is no evidence that Applicant remained engaged with TRF2 beyond July 2024, and he testified that he only worked with TRF2 about six months. (AE Q; Tr. 58, 63-64)

On October 15, 2024, Applicant agreed to a new installment plan with the IRS, under which he would pay \$300 monthly to resolve his delinquent taxes, penalties, and interest for TY 2019, 2020, 2021, and 2023. Payments were to begin on November 28, 2024. Applicant testified that he made the required payments in November and December 2024; however, he provided no corroborating evidence. He provided documentary evidence of \$300 payments to the IRS in January 2025 and March 2025, and two \$300 payments after the hearing. At the hearing, He also testified to other payments to the IRS since 2022 that are not reflected in the documentary evidence. As of July 29, 2025, Applicant owed \$55,774 to the IRS – TY 2019 (\$0), TY 2020 (\$9,088), TY 2021 (\$38,547), and TY 2023 (\$8,139). (AE G, AE H, AE U-AA; Tr. 58-64, 72-73)

**TY 2018.** The IRS account transcript reflects that he timely filed his return, and he owes no taxes for this tax year. (GE 3 at 23)

**TY 2019.** The IRS account transcript reflects that he timely filed his return. In February 2020, the IRS issued Applicant a refund of \$3,992. Upon reexamination by the IRS, he was assessed taxes, penalties, and interest totaling approximately \$6,095 as of August 2022. Applicant made payments in February 2024 (\$457), February 2024 (\$500), February 2024 (\$500), and March 2024 (\$500). As of September 27, 2024, Applicant owed approximately \$3,862 in taxes, penalties, and interest for TY 2019. With the October 5, 2024 IRS installment agreement, the penalties were waived. As of July 29, 2025, Applicant owed no balance for TY 2019. This debt is resolved. (Answer; GE 3 at 25-27; AE B, AE C, AE G-I, AE U-AA; Tr. 66)

**TY 2020.** The IRS account transcript reflects that Applicant timely filed his return. In April 2021, a refund of \$6,554 was issued to him. Upon recalculation by the IRS, he was assessed taxes, penalties, and interest totaling approximately \$22,109 as of July 2023. A \$225 payment was made in March 2022. An IRS installment agreement was established in October 2023, but no payments were made. As of September 27, 2024, Applicant owed approximately \$24,935 in taxes, penalties, and interest for TY 2020. On October 5, 2024, Applicant entered into a new IRS installment agreement, to pay \$300

monthly to resolve his delinquent taxes. As of July 29, 2025, he owed approximately \$9,088 for TY 2020. (Answer; GE 2; GE 3 at 28-29; AE B, AE G-I, AE U-AA)

**TY 2021.** The IRS account transcript reflects that Applicant timely filed his return. Two refunds, totaling \$16,810, were issued in early 2022. Upon recalculation by the IRS, Applicant was assessed taxes, penalties, and interest totaling approximately \$32,027 as of July 2023. An installment agreement was established in October 2023; however, no payments have been applied to this tax year since February 2022. As of September 27, 2024, Applicant owed approximate \$35,837 in taxes, penalties, and interest for TY 2021. On October 5, 2024, he entered into a new IRS installment agreement, to pay \$300 monthly to resolve his delinquent taxes. As of July 29, 2025, he owed approximately \$38,547 for TY 2021. (Answer; GE 2; GE 3 at 30-31; AE B, AE G-I; AE U-AA)

**TY 2022.** The IRS account transcript reports that Applicant timely filed his return, which reflected a household annual income of \$8,959 for TY 2022. The account transcript reflects payments in March 2024 (\$500), April 2024 (\$600), May 2024 (\$500), May 2024 (\$400), and June 2024 (\$500) which were redirected to Applicant's TY 2019 tax debt. He does not owe any delinquent taxes for TY 2022. (Answer; GE 3 at 32-33; AE C, AE I)

**TY 2023.** Applicant's IRS account transcript reflects that he timely filed his return, which reflected his and his wife's gross income of \$90,302. The account transcript reflects insufficient tax withholding. Applicant made payments in July 2024 (\$500) and August 2024 (\$550). He provided documentation of two scheduled payments, totaling \$500, for September 2024; however, there is no documentary evidence that these payments were completed. As of August 27, 2024, he owed approximately \$9,761 in taxes, penalties, and interest. On October 5, 2024, Applicant entered into a new IRS installment agreement, to pay \$300 monthly to resolve his delinquent taxes. As of July 29, 2025, he owed approximately \$8,139 for TY 2023. (Answer; GE 3 at 34-35; AE C, AE G-I, AE U-AA)

Applicant testified that he and his wife spent approximately \$9,000 for an immigration attorney to have his three children obtain LPR status and move to the United States. Applicant's wife had entered an alcohol rehabilitation facility about two weeks prior to the security clearance hearing. Although health insurance covered the treatment cost, Applicant paid for her out-of-state transportation and has lost her income during treatment. (Tr. 67, 74)

Applicant earns \$25 an hour as a senior generator technician. His wife is a full-time caregiver. As of the hearing, he had approximately \$300 in his savings account, and he and his wife were past due on some of their credit-card accounts. He explained that he started getting behind on his bills beginning in September 2024, when he returned for his overseas employment. He felt that he had been scammed by three TRFs, and he acknowledged poor decision-making in engaging and paying these companies without a clear scope and demonstrated progress. (Tr. 69-70, 75-82)

On August 1, 2025, Applicant submitted a personal financial statement with his monthly income and monthly expenses. With his wife's income, the monthly household income totaled \$6,527, and the monthly expenses were approximately \$6,283, leaving a monthly remainder of approximately \$244. His monthly expenses include financial support (\$300) for his fourth child. (AE GG; Tr. 47, 75-80)

### **Whole Person**

Applicant proffered a letter of appreciation from the U.S. Air Force service member with whom Applicant worked for five months in 2022. He praised the team's "infallible work ethic and attention to detail." Applicant received a certificate of appreciation for his service supporting the U.S. military overseas as a contractor from December 2007 to November 2011. He has completed several security trainings in October and November 2023. (AE J, AE R, AE T, AE CC, AE DD, AE II)

### **Administrative Notice**

I have taken administrative notice of the following facts concerning Kenya excerpted from the materials proffered by Department Counsel:

Kenya is a constitutional republic in eastern Africa. In June 2024, the U.S. President designated Kenya a major non-NATO ally. The U.S. Department of State has issued a Level 2 Travel Advisory for Kenya, advising U.S. travelers to exercise increased caution due to crime, terrorism, civil unrest, and kidnapping. Certain border counties and coastal areas near Somalia, due to terrorism and kidnapping, have even more heightened warnings. (AN I)

Terrorist threats remain high in Kenya. Al-Shabaab is a Sunni Islamic terrorist group that publicly pledged loyalty to al Qaeda in 2012. The group works to overthrow the Somali government. In January 2023, Al-Shabaab forces attacked U.S. and Kenyan forces at a forward operating base in Kenya near the Kenya-Somalia border. In its Annual Threat Assessment for 2024, the Office of the Director of National Intelligence noted that Al-Shabaab continued to advance its attack capabilities by acquiring weapons systems and had expanded its operations in northeast Kenya. (AN I)

As of 2023, significant human rights concerns persisted, including credible reports of arbitrary or unlawful killings, including extrajudicial killings; enforced disappearances; torture or cruel, inhuman, or degrading treatment or punishment by the government, etc. (AE I)

### **Policies**

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 to be 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, administrative judges apply the guidelines 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."

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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to sensitive 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 sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline B: Foreign Influence**

The security concern under this guideline is set out in AG ¶ 6 as follows:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual may be manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure

or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

Two disqualifying conditions under this guideline are relevant to this case:

AG ¶ 7(a): contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and

AG ¶ 7(b): connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

The United States has a compelling interest in protecting and safeguarding sensitive information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States. To establish AG ¶ 7(a), the Government must demonstrate a "heightened risk" of exploitation due to Applicant's contacts with Kenyan relatives and best friend. Given the presence and activities of al-Shabaab in Somalia and Kenya, as well as human rights issues, the Government has established the requisite "heightened risk" and potential conflict of interest regarding Applicant's contacts with his Kenyan family members and his best friend. AG ¶¶ 7(a) and 7(b) apply.

The following mitigating conditions under this guideline are potentially relevant:

AG ¶ 8(a): the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;

AG ¶ 8(b): there is no conflict of interest, either because the individual's sense of loyalty or obligation to the foreign person, group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the U.S., that the individual can be expected to resolve any conflict of interest in favor of the U.S. interest; and

AG ¶ 8(c): contact or communication with foreign citizens is so casual and infrequent that there is little likelihood that it could create a risk for foreign influence or exploitation.

Applicant's sister, cousin, and best friend have no ties to the Kenyan government or military. His sister resides in the United States and maintains LPR status. He has limited contact with his cousin and best friend. AG ¶¶ 8(a) and 8(c) apply as to SOR ¶¶ 1.c. and 1.d.

Three of Applicant's brothers currently serve in the Kenyan Army. His father is retired from the Kenyan Army and receives a military pension. Applicant maintains regular contact with his immediate family members in Kenya. His children resided in Kenya, living with Applicant's parents and brother, until 2021. Applicant continues to provide monthly financial support to his parents. He has traveled several times to Kenya, and he traveled with his wife and children in June 2024 to visit his family there. There is nothing improper about such contacts with one's foreign family members; however, the nature and frequency of these contacts demonstrate the depth of Applicant's relationship with his parents and brothers in Kenya. None of the foreign influence mitigating conditions apply to SOR ¶¶ 1.a. and 1.b.

## **Guideline F: Financial Considerations**

The security concern 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. . . .

The guideline notes several conditions that could raise security concerns. The following are potentially applicable in this case:

AG ¶ 19(a) inability to satisfy debts;

AG ¶ 19(c) a history of not meeting financial obligations; and

AG ¶ 19(f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

The Government established that the IRS had filed a Federal tax lien in November 2023 in the approximate amount of \$59,494. As of September 2024, Applicant owed delinquent taxes, penalties, and interest totaling approximately \$74,396. AG ¶¶ 19(a), 19(c), and 19(f) apply.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable in this case:

- (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;
- (d) the individual has initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant bears the burdens of production and persuasion in mitigation. An applicant is not held to a standard of perfection in his or her debt-resolution efforts or required to be debt-free. "Rather, all that is required is than an applicant act responsibly given [her] circumstances and develop a reasonable plan for repayment, accompanied by 'concomitant conduct,' that is, actions which evidence a serious intent to effectuate the plan." ISCR Case No. 15-02903 at 3 (App. Bd. Mar. 9, 2017). See, e.g., ISCR Case No. 13-00987 at 3, n.5 (App. Bd. Aug. 14, 2014).

Applicant credibly testified that he relied upon a tax preparer who made incorrect calculations on his TY 2019 and TY 2020 returns. Although Applicant received some correspondence from the IRS in 2021, his return for TY 2021 was not re-examined until July 2023. I have also considered Applicant's attempts to engage a TRF in 2022. He failed to provide documentary evidence of the engagement and scope of TRF1; however, he did provide proof of \$9,300 in payments in early 2022. There is no evidence of any tax payments between March 2022 and January 2024, despite two IRS installment agreements. Between January and August 2024, he made 11 payments totaling

approximately \$5,457. He scheduled two \$500 payments in September 2024; however, there is no evidence to corroborate that the payments were completed. In October 2024, he initiated a new IRS installment agreement, and he claimed payments in November and December 2024. He provided documentary evidence of payments in January 2025 (\$300), March 2025 (\$300), and two payments in July 2025 (totaling \$600).

The record only contains documentary evidence of four of nine required payments since the October 2024 agreement began, including two timely payments and two payments after Applicant's security clearance hearing. I have considered that Applicant testified that he and his wife were behind on some of their credit-card accounts. I have also considered that Applicant's total delinquent tax balance has been reduced from \$74,396 to \$55,774, due to the waiver of the TY2019 penalties, Applicant's payments, and the application of his refunds for recent tax years. Applicant's documented payments since January 2024 total approximately \$6,657.

Applicant has not provided sufficient documentary evidence to show that he acted responsibly to address his tax delinquencies once brought to his attention by the IRS in 2021. The timing of Applicant's debt-resolution efforts is relevant and material to the evaluation of her evidence in mitigation. See, e.g., ADP Case No. 16-03595 at 4 (App. Bd. Aug. 27, 2018)(timing of debt-resolution efforts is relevant in evaluating the sufficiency of case in mitigation). He provided some evidence of engaging TRFs on his behalf; however, it is not clear the scope and progress of each TRF. Most importantly, he has not demonstrated a track record of payments in compliance with an IRS installment agreement. His recent financial struggles, since his employment with the DOD contractor ended and his wife's treatment, also remain a concern. He did not mitigate the financial considerations security concerns.

## **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for access to classified information 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 B, Guideline F, and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant received awards, certificates, and a letter of support for his longtime employment with DOD contractors while stationed overseas. I found his testimony honest and sincere; however, the explanations about his work with the TRFs were muddled, uncorroborated, and unreliable. With a track record of payments in compliance with the IRS installment agreement, he may be able to mitigate the financial considerations security concerns. But as of now, he has not provided sufficient documentary evidence to do so. Applicant's contacts with and financial support of his immediate family members in Kenya are natural and appropriate, yet these contacts create a potential conflict of interest. At this time, he has not mitigated the foreign influence security concerns. 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:

Paragraph 1, Guideline B:	AGAINST APPLICANT
Subparagraphs 1.a.-1.b.:	Against Applicant
Subparagraphs 1.c.-1.d.:	For Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a.:	Against Applicant

### **Conclusion**

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

Eric H. Borgstrom  
Administrative Judge