



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01402

Appearances

For Government: Brittany White, Esq., Department Counsel
For Applicant: *Pro se*

12/17/2025

Decision

Curry, Marc E., Administrative Judge:

Applicant failed to mitigate the security concerns generated by his delinquent debts, his longtime marijuana use, and his criminal conduct. His application for a security clearance is denied.

Statement of the Case

On January 30, 2025, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (AVS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations; Guideline H, drug involvement; and Guideline J, criminal conduct, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The AVS 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.

Applicant answered the SOR on February 11, 2025, admitting all the allegations. He requested a hearing, and the case was assigned to me on April 11, 2025. On April 24, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice of video teleconference hearing scheduling the case for May 8, 2025. At the hearing, I received nine government exhibits, marked as Government Exhibit (GE) 1 through GE 9, and I considered the testimony of Applicant. The transcript was received on May 12, 2025. My decision was delayed by the furloughing of administrative judges during the government shut down due to lapse in federal funding

Findings of Fact

Applicant is a 32-year-old married man with one child, age 10. He has been separated from his wife for several years. He graduated from high school in 2010 and enlisted in the U.S. Marines, where he served from 2011 to 2015. He was discharged honorably. (Tr. 13-15) He has a GED and has taken some cybersecurity courses. (Tr. 48) He has been working for his current employer, a defense contractor, for approximately two years. (Tr. 14) He is trained as a sheet metal handyman. (GE 2 at 11)

Applicant incurred approximately \$27,000 of delinquent debt, as alleged in the SOR, including \$7,506 of delinquent child support payments (1.a), and a \$9,658 deficiency on a repossessed car, as alleged in subparagraph 1.g.

Applicant provided evidence that he has been paying the child support arrears through a wage garnishment since June 2024 in the amount of \$466 monthly. (Answer at 3 through 6) He contends that he negotiated a reduction in the debt set forth in subparagraph 1.b, a phone bill, totaling \$1,510, reducing it to \$986, to be paid in two monthly increments, (Tr. 25) He provided no substantiating documentation. He has taken no steps to satisfy the debts alleged in subparagraphs 1.c through 1.h, and he provided no proof that he is paying subparagraph 1.g through a garnishment, as he contends. (Tr. 31) Lastly, he testified that he does not recognize the debt set forth in subparagraph 1.h. totaling \$5,643, but he provided no evidence that he has formally disputed it or taken steps to identify it.

Applicant attributes his debt to immaturity, irresponsibility, and disorganization. (Tr. 16-17) He characterized the incurrence of the debt as "all [his] fault." (Tr. 17)

Applicant smoked marijuana from 2009 to October 2023. (Tr. 40) When he started, he was in high school. After graduating and enlisting in the Marines in 2011, he stopped. (Tr. 40) He resumed use after leaving the Marines in 2015 and continued smoking to 2023, smoking it approximately two to three days per week. (Tr. 40, 42) From 2015 to 2017 he used marijuana while holding a sensitive position. (GE 2 at 5; Answer at 2) He used it to help him sleep. (GE 2 at 10) From 2015 to 2021, he purchased and used it in a state where it was illegal. (Tr. 42) When his state legalized it, Applicant began purchasing it from a dispensary. (Tr. 42) He stopped using it after his investigative interview when the

agent told him it was still illegal at the federal level. (Tr. 43) Applicant has not smoked marijuana for approximately two years.

In June 2017, Applicant was arrested and charged with possession with intent to distribute marijuana greater than one half ounce to five pounds and carrying a concealed weapon. The charges stemmed from an episode when the police pulled over his car because a license plate light was out, and the police officer noticed the smell of marijuana (GE 2 at 11) An ensuing search revealed marijuana and a handgun on the floor of the backseat.

Applicant's girlfriend was driving his car and Applicant, together with another passenger were in the car. Applicant contends that the marijuana was not his, but he claimed it because he did not want his girlfriend to get in trouble. (Tr. 45 - 46; GE 2 at 11). Subsequently, the marijuana charge was never prosecuted, and Applicant was not charged with a gun violation because he legally owned it. (Tr. 47)

Between 2021 and 2022, Applicant was charged four times for failure to appear and once for contempt of court, related to various traffic-related misdemeanors. (Answer at 3) After his charge in the Spring of 2022, as alleged in subparagraph 3.e, he was ordered to serve 14 days in jail. (GE 2 at 11)

Applicant attributes his failure to appear at the court hearings to immaturity and irresponsibility. (Tr. 48) Currently, he does not have a driver's license. His previous license expired, and he cannot renew it until he pays the fines from his previous traffic offenses. (Tr. 45) He was on a payment plan, but missed one payment, Consequently, the municipality required him to pay the remainder in a \$374 lump sum, which he has yet to do. (Tr. 49, 51)

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 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 ¶ 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 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 that “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 delinquencies 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:

- (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 debt.

Applicant's debts remain outstanding. The only one that he is paying is his child support delinquency, which has minimal probative value because he is paying it through a garnishment. He provided no evidence substantiating any payment plans, and no evidence substantiating the basis of the dispute for the debt he contested. Lastly, he clearly continues to struggle with his finances, as he is unable to pay the balance of various court penalties, which is preventing him from reinstating his driving license. Under these circumstances, none of the mitigating conditions apply, and Applicant has failed to mitigate the financial considerations security concerns.

Guideline H: Drug Involvement

Under this guideline, “[t]he illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. (AG ¶ 24) Applicant's use of marijuana with varying degrees of frequency from 2009 to 2023, including from 2015 to 2017 when he held a sensitive position, triggers the application of AG ¶ 25(a) “any substance misuse,” and AG ¶ 25(f) “any illegal drug use while granted access to classified information or holding a sensitive position.”

Applicant has not used marijuana for approximately two years. He candidly discussed his immaturity and expressed an intent not to use it again. However, this is not enough time to conclude that he has mitigated the security concern, given the length of

time that he used it in the past. This triggers the partial application of AG ¶ 26(b), “the individual acknowledges his or her drug involvement and substance misuse . . .” Given the length of time that Applicant used marijuana, it is too soon to conclude that he has mitigated the drug involvement security concern.

Guideline J: Criminal Conduct

Under this guideline, “criminal conduct creates doubt about a person’s judgment, reliability, and trustworthiness [and] by its very nature . . . calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” (AG ¶ 30) Applicant’s marijuana and gun possession charges occurred eight years ago, and neither were prosecuted. Under these circumstances, I resolve subparagraph 3.a in Applicant’s favor.

Applicant’s failures to appear in court on various traffic-related misdemeanor charges between April 2021 and September 2022, and his contempt of court charge trigger the application of AG 31(a), “a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination, cast doubt on the individual’s judgment, reliability, or trustworthiness.” Applicant testified sincerely and contritely, acknowledging the irresponsibility of the conduct, and the most recent failure to appear charge is more than three years old. Conversely, Applicant never completely satisfied the court-ordered fines, and is not currently making payments toward their satisfaction. Under these circumstances, it is too soon to conclude he has resolved the criminal conduct security concerns.

Whole-Person Concept

Applicant’s financial problems were caused by circumstances beyond his control. However, he presented insufficient evidence establishing the steps that he testified that he was taking to remedy them. Upon considering this case in the context of the whole-person concept, I conclude Applicant has failed to mitigate the security concerns.

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.h:	Against Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant

Paragraph 3, Guideline J:

AGAINST APPLICANT

Subparagraph 3.a – 3.f:

Against Applicant

Conclusion

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

Marc E. Curry
Administrative Judge