



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)

Applicant for Security Clearance

ISCR Case No. 23-00655

Appearances

For Government: Brian Farrell, Esq., Department Counsel

For Applicant: *Pro se*

01/28/2026

Decision

KATAUSKAS, Philip J., Administrative Judge:

This Decision was delayed when all administrative judges were furloughed from October 1, 2025, through November 12, 2025, during a federal government shutdown due to a lapse in federal funding. Applicant has provided sufficient evidence to mitigate the national security concern arising from his financial problems. Applicant's eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted his security clearance application (SCA) on September 30, 2022. On June 8, 2023, the Department of Defense (DOD) sent him a Statement of Reasons (SOR) alleging that his circumstances raised security concerns under Guideline F (financial considerations). This action was taken under Executive Order (E.O.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended, as well as Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive). The *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on June 8, 2017, apply here.

Applicant answered the SOR on July 25, 2023 (Answer) and requested a hearing before an administrative judge. The case was assigned to me on April 2, 2024. On January 31, 2025, the Defense Office of Hearings and Appeals (DOHA) notified Applicant convened the hearing as scheduled. Government Exhibits (GE) 1 through 5 were admitted without objection. Applicant testified, called one character witness, and submitted Applicant's Exhibits (AE) A and B which were admitted without objection. On December 19, 2025, I reopened the record *sua sponte* to allow Applicant to submit additional documents by January 16, 2026. He timely submitted additional documents which were marked AE C through AE H and admitted without objection. DOHA received the transcript (Tr) on March 10, 2025.

Findings of Fact

Applicant is 30 years old, has never married, and has no children. He graduated from high school in May 2012 and earned his associate's degree in May 2014. From January 2012 to February 2020, he has lived in nine different locales in the same state. Between July 2015 and April 2020, he held four part-time jobs. He was not adversely terminated from any one of them. Those jobs were followed by three periods of unemployment (March to Augst 2016; June to November 2019; and February to March 2020). Since April 2020, he has been employed by a defense contractor. This is his first security clearance investigation. (GE 1.)

The SOR alleged that Applicant: (a) failed to file federal income tax returns for tax years 2015, 2016, 2017, and 2018; and (b) is delinquent on a charged off account for \$7,740. (SOR ¶ 1.) He admitted both allegations. (Answer ¶ 1.) As to his taxes, he reported: "At the time a (sic) moved a lot and never received my W2 forms . . . I have not taken any action on this because the IRS has not informed me that I owe any money." (GE1.) Post hearing, he submitted IRS 2016 through 2018 documents establishing that he was not required to file federal tax returns for 2016 through 2018, because his income was below the minimum for each year. The IRS minimum income to file taxes depends on the filer's status, age, and other factors. For tax years 2016 through 2018, it was around \$12,000. (AE C through AE H.) As to his delinquent loan, he reported: "I was a full time student in college and could not afford car payments." (GE 1.)

Testimony – Mr. A

Mr. A testified as a character witness. He is a senior project engineer and has worked extensively in the security industry for the last four years, twenty years with his current employer, which also employs Applicant. He met Applicant in 2020 on a hospital project, where Applicant was an electrician. (Tr. 20.)

Applicant expressed an interest in joining the security team, so they gave him an opportunity. He worked on wiring the doors, hardware, access control systems, and cameras. He took to the work very quickly. He has since moved with the team and the witness to three other projects, one of which is a federal project. He has become a valued member of the team. (Tr. 21.)

Applicant has an exceptional work ethic. The quality of workmanship is way above average. He has a very promising career in electronic security, and the witness would hate to see something that happened far off in his past hamper his ability to advance in his career. Applicant a trusted and valued member of the witness's organization in general and of the team. (Tr. 22.)

Testimony – Applicant

As far as the taxes in the past, Applicant reached out to the Internal Revenue Service (IRS) and went online to its website, trying to figure out how to pay his taxes or take care of them if he could. On the IRS website, there was nothing there [for his 2015 through 2018 tax returns]. He has never owed any money to the IRS in the past. He does not owe any now. (Tr. 25, 36.)

Applicant has filed taxes religiously since about 2019 to the present and has never had a problem. He always got a refund. It was being a young, dumb adult at the time, and just did care enough. He was in college. He moved apartments every year, so when the W-2s arrived he never received them. He just never took the effort to try to get them. Unfortunately, it was a dumb decision that caught up with him now. (Tr. 25-26.)

Applicant is 30 years old and testified that he has a great job for a great company. He believes he is a well-trusted employee. A clearance would allow him to skyrocket in his company. It would get him a lot more money. He would be able to pay off debts. His fiancée is in law school. She has a couple more years, and she can get a job as a lawyer. He can continue up the ladder in this company; a clearance helps in his company. He can get to the point where he will be able to pay off his debts and get ahead. Right now, Applicant does not have enough extra income to pay anything off, because he pays for everything in his relationship with his fiancée. Her school only allows her to work 20 hours a week. He just needs a little bit more time. (Tr. 22-27.)

Applicant testified about his career with his current employer since 2020. He started as an apprentice and after a couple months went to SES (Security Electronic Systems). He worked for electrical as an apprentice. SES needed some help, so he started helping the SES team. He did about five SES jobs and is now on the NC job. He is now an Electronics Technician II. He went from an electrical apprentice to an Electronics Technician I to an Electronics Technician II as of December 2024. (Tr. 28-29.)

As an apprentice, Applicant was full-time and salaried. He made \$13 to \$17 per hour and consistently worked 40 hours per week. He made \$400 to \$500 per week or about \$2,000 per month. When he became an apprentice, he made \$17 per week and as a Tech I in early 2023, he made \$28 per week. When he made Technician II in December 2024, he went to \$30.30 per hour. He estimated that he might make \$60,000 to \$70,000 in the next year and a half depending on overtime. (Tr. 29-32.)

The SOR alleged Applicant failed to file federal income tax returns from 2015 to 2018. He did not know that IRS has certain minimum income requirements to file federal income tax returns. Informed that the IRS threshold for 2015 was just under \$11,000 per

year, he thought maybe he made \$11,000 to \$12,000. It could have been close. In a couple of those years, probably at least one, he made less than \$11,000. (Tr. 34-36.)

Applicant testified about his part-time jobs from 2015 to 2018. The majority of his former employers were restaurants and are no longer in business. Three were closed, and for one he did not know if he worked for the temp agency or the owner. In 2019, he moved away from college and decided to get his life together and file his 2019 tax returns. In the years he did not file (2015, 2016, 2017, and 2018), he likely would have gotten a refund. (Tr. 37-45.)

(SOR ¶ 1.b) (charged off auto loan account for \$7,740). Applicant was directed to GE 2 at 9, his second personal subject interview (PSI). He may have bought this car in 2017 or 2018. Three months after the purchase, he was in an accident, and the car was totaled. It happened in midday, and it was raining. He slid off the road and hit a tree. The car was not drivable. No other car was involved. It was a used car, a 2010 or 2011 model. He paid about \$8,000 and put some money down but could not remember how much. (Tr. 47-48.)

Applicant had insurance, but he never told the insurance company or the police about the wreck. The car was insured under his mother's policy. He did not tell his mother about the accident, because at the time he and his mother had a strained relationship due to a divorce in the family. He did not want to bother her about it. He left the car in his apartment parking lot, and one day it was gone. A few weeks later, his mother found out about the accident and went to multiple towing companies but never found the car. He stopped making payments. He assumed the car had been repossessed, so he contacted the lender but it had no record of a repossession. He was unaware of this account and received no notices of it being sent to collections. About five months ago, he contacted the lender to make an agreement to eliminate the debt but was unable to make an agreement. He did not file an insurance claim, because he knew his mother's premium would go up. He now believes not reporting the accident was one of the "worst decisions [he has] ever made. It's like honestly followed [him]." He is considering paying off this debt once his income goes up or waiting for seven years when this debt should be eliminated from his credit report. (Tr. 48-52, 56-57; GE 2.)

Applicant does not have a set written budget. He has a certain amount of money that he puts in his savings every week to make sure he can pay all his bills. He has never received a financial counseling or a financial literacy class. He thought his employer might offer something like that. His savings account now has about \$700. Every week he puts \$350 in the account because that will pay the rent. Then he sends money to his fiancée for other things, like electric and the Internet. He takes everything he has to pay and divides by four, because he gets paid four times a month. That is how he does his finances. (Tr. 57-58.)

Applicant has a checking account with a current balance of about \$430 to \$450. He has a 401(k) with a balance of about \$30,000. With his employer's matching contribution, about \$500 a month is put in that account. His fiancée owns a car she bought

when she had a job about three or four years ago. Now that she no longer works, he pays the car fee of \$200 per month. The balance is about \$5,800 with about three or four years left. Her parents pay for her insurance. At the end of the month, he has probably spent all the money that comes in. He has no other sources of income. His fiancée gets student loans, so that is a little extra money for food, but she does not pay bills with it. The last time he went on a vacation was last weekend for a wedding. He did not know when they took a real vacation. Maybe it was last year when they went to City A for a weekend. (Tr.58-63.)

Although Applicant did not provide his tax transcripts for years 2015 to 2018. he reiterated that he has filed his 2022, 2023, and 2024 federal income tax returns. He received a \$2,000 refund from his 2024 tax return. He deposited that refund in his fiancée's account, because they are saving for a wedding. They do not have a date yet. (Tr. 63-65.)

Applicant testified about four unalleged federal education loans, two for about \$6,000 each, and two for \$2,500 and \$2,300. He knows they exist but did not know they were in collections. He never received any letters from the Department of Education about them. He was waiting to see if the administration was going to get rid of them. His plan is to reach out to whomever is servicing the loans and set up a payment plan for a minimal amount. He understands that the loans are a federal obligation and can reflect on his trustworthiness. (Tr. 66-71.)

Applicant was asked in discovery for IRS transcripts for tax years 2015 to 2021. He did not provide transcripts for tax years 2015 to 2018, because he was unable to get them from the IRS website. He provided transcripts for tax years 2019 to 2021 which showed he filed returns for those years. (Tr. 75.) Post hearing, he submitted IRS 2016 through 2018 documents establishing that he was not required to file federal tax returns for 2016 through 2018, because his income was below the minimum for each year. (AE C through AE H.)

Character References

AE A. The author identifies as a Superintendent of Applicant's employer who has known and worked with him for over a year. The author has developed an enduring respect for both his work ethic and problem-solving abilities. Although he was only at the level of an apprentice, he performed head and shoulders above his peer group and quickly advanced to the level of a Technician Level 2 within the space of one year. The author witnessed his performance on highly complex projects requiring high levels of intelligence and expert technical knowledge far above his pay grade. Many of the solutions he proposed were insightful and practical, and he showed a remarkable capacity for breaking large issues into manageable segments. He is a pleasure to work with and has a great teachable attitude for learning. His rate of learning is high speed, and he excels at performing complex work that is new to him. He has always displayed a high degree **of** integrity, responsibility, and leadership. He has proven himself to be an invaluable member of the team, and the entire team thinks very highly of him.

AE B. The author identifies as a Technician 3 of Applicant's employer who has worked directly with him on several highly complex projects as his senior technician. The author has been very impressed with Applicant's ability to learn quickly on many new and difficult technical security tasks. He puts his full dedication and commitment to excellence in every aspect of the job. Whatever he takes on, he "owns" it and has made a great name for himself. For example, although Applicant is a junior technician, he is currently being relied upon to oversee and manage the security installation for a major project. He is literally the go-to person in charge. Applicant is a very trusted member of our team and has a very friendly and outgoing personality. The author is very confident Applicant will be a dedicated and highly talented asset in anything he pursues.

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988). The DODA Appeal Board has followed the Court's reasoning, and a judge's findings of fact are reviewed under the substantial-evidence standard. Substantial evidence means "evidence that a reasonable mind could accept as adequate to support a conclusion; evidence beyond a scintilla." 484 U.S. at 531. Substantial evidence is a lesser burden than both clear and convincing evidence and preponderance of the evidence, the latter of which is the standard applied in most civil trials.

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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 ¶ 12(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, then 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 in seeking a favorable security decision.

Analysis

Guideline F – Financial Considerations

The security concern relating to Guideline F 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. . . .

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes disqualifying conditions that could raise security concerns under AG ¶ 19. The followings conditions are applicable in this case:

- (a) inability to satisfy debts; and
- (f) failure to file . . . annual Federal . . . income tax returns as required.

Applicant's admissions establish the SOR allegations of failures to file federal income tax returns and his delinquent consumer debt. AG ¶¶ 19(a) and (f) apply. The next inquiry is whether any mitigating conditions apply.

Guideline F includes conditions that could mitigate security concerns arising from financial difficulties. 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; and
- (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), . . . divorce or separation), and the individual acted responsibly under the circumstances).

Applicant purchased the automobile in question in either 2017 or 2018. His accident occurred about three months later. The car was not drivable. He left it in his apartment parking lot, and one day it was gone. His mother tried but never located it. He contacted the lender, but it had no record of a repossession. Not long ago, he contacted the lender to set up a payment plan but was unable to do so. This was an unusual one-time event that occurred seven or eight years ago. The circumstances are unlikely to occur, and Applicant's effort to set up a payment plan, albeit unsuccessful, shows good judgment. I find that AG ¶ 20(a) applies and mitigates SOR ¶ 1.b.

I considered AG ¶ 20(b), which requires that an applicant's financial problems be caused by conditions largely beyond his control and that he act responsibly under his adverse circumstances. Here, Applicant's part-time jobs were terminated for reasons beyond his control. He acted responsibly by continuing to take jobs, albeit part-time ones. He also wisely used unemployment to get him through his job losses. This history of underemployment and unemployment explains his current financial straits. I find that AG ¶ 20(b) applies and mitigates SOR ¶ 1.b.

Applicant's peripatetic life stretched from January 2012 to April 2020, when he started his current job. In that time, he lived in nine different locales in the same state. During part of that time, from July 2015 to April 2020, he held four part-time jobs, and most of those employers are no longer in business. He moved frequently, so when W-2s arrived he never received them. He believes this explains in part why he fell behind in his federal income tax return filings. During discovery, he was asked to produce his federal income tax transcripts for tax years 2015 to 2021. He produced transcripts for tax years 2019 to 2021. They showed that he filed his returns for those years. He went on the IRS website and attempted to access information for 2015 to 2018 but was unsuccessful. He testified that he has filed his 2022, 2023, and 2024 federal income tax returns. Applicant established that he was not required to file federal income tax returns for tax years for 2016 through 2018, because his income was below the minimum for each year. The Government did not establish its case for tax years 2016 through 2018. His efforts to access his 2015 transcript were unsuccessful, but the law does not require futile acts. See *Ohio v. Roberts*, 448 U.S. 56 (1980). Also, his failure to file his 2015 return was caused by his frequent changes in residence and his numerous periods of part-time employment. Given his current full-time employment, the respect of his co-workers, and his engagement to be married, it is unlikely to recur and does not cast doubt on his reliability, trustworthiness, or good judgment. AG ¶ 20(a) applies and mitigates SOR ¶ 1(a).

Whole-Person Concept

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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the "whole-person" concept and factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case.

I have incorporated my comments under Guideline F in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under that guideline and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by financial considerations.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline F

FOR APPLICANT

Subparagraphs 1.a -1.b:

For Applicant

Conclusion

I conclude that it is clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is granted.

Philip J. Katauskas
Administrative Judge