



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



In the matter of:)	
)	
XXXX, Xxxx Xxxxxx Xxx)	ISCR Case No. 12-04949
)	
Applicant for Security Clearance)	

Appearances

For Government: Pamela Benson, Esquire, Department Counsel
For Applicant: *Pro se*

08/07/2014

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant's clearance.

On 4 February 2014, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 30 May 2014, the day Applicant's response to the FORM was due. Applicant submitted no materials for review. DOHA assigned the case to me 30 June 2014.

¹Consisting of the File of Relevant Material (FORM), Items 1-10.

²DoD acted under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant denied the SOR financial allegation. He is a 37-year-old security guard pending employment by a U.S. defense contractor since December 2011. He has not previously held a clearance.

The SOR alleges, and Government exhibits (Items 6-9) substantiate, an unpaid judgment for \$20,533, obtained in March 2007 (Item 9). According to Applicant, the judgment is for leased equipment he used during an abortive attempt to run a bakery—a bakery that went out of business in September 2004 (Item 6). Applicant claims, without corroboration, to have settled the debt for a single payment of \$8,000 made before the judgment was entered (Item 6). Applicant's credit reports reflect a significant number of delinquent charged-off and collection accounts that were subsequently resolved.

Applicant's response to DOHA interrogatories (Item 6) contains a current credit report reflecting that the judgment was scheduled to be removed from his credit report in December 2014. Applicant's Answer contains a more recent credit report reflecting that the judgment has been removed from his credit report. Applicant provided no work or character references.

Policies

The adjudicative guidelines (AG) list factors for evaluating a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own.

The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant’s suitability for access in favor of the Government.³

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has a history of financial difficulties and this unresolved judgment.⁴ Applicant’s financial problems date to at least 2004, when he shuttered his bakery.

Applicant’s credit reports and the court record clearly establish the delinquent judgment. Although Applicant denied the SOR allegation, he acknowledged the debt during a subject interview and claimed that he had settled the judgment for \$8,000. However, he submitted no documentation to support that claim. Further, he had the burden to show that he had settled the debt, or otherwise successfully challenged the debt on his credit reports, rather than having the debt just age off his credit report.

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple, although the immediate causes of his problems are unlikely to recur.⁵ While the failure of his bakery was a circumstance beyond his control, Applicant has not been responsible in addressing his debt, having failed to document his claimed resolution of the judgment.⁶ Applicant offered no evidence of financial or credit counseling, and has presented no budget or plan for addressing his remaining debt, other than having it become uncollectible by aging off his credit report.⁷ Under the circumstances, Applicant’s efforts cannot be considered a good-faith effort to address his debts.⁸ Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph a:	Against Applicant

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

⁵¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁶¶20 (b) the conditions that resulted in the financial problem were largely beyond the person’s control . . . and the individual acted responsibly under the circumstances;

⁷¶20 (c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

⁸¶20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge