



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



In the matter of:)	
)	
XXXXXXX, XXXXXXXXXXXX XXXXXXXX)	ISCR Case No. 12-09133
)	
Applicant for Security Clearance)	

Appearances

For Government: Ross Hyams, Esquire, Department Counsel
For Applicant: *Pro se*

12/17/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 16 June 2015, 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 22 October 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 1 December 2015.

¹Consisting of the File of Relevant Material (FORM), Items 1-8.

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 admitted the SOR financial allegations. He is a 33-year-old welder employed by a U.S. defense contractor since June 2012. He was previously employed as a welder at the same company from winter 2000 to September 2003. He has not previously held a clearance. He was unemployed from November 2009 to June 2012. Otherwise, he has been continuously employed, full time, since winter 2000. He has never married, but has a son, born February 2006.

The SOR alleges, Government exhibits (Items 5-7) substantiate, and Applicant admits 10 delinquent debts totaling over \$12,500. He also admits receiving a chapter 7 bankruptcy discharge in July 2004 (Item 8), and having his home foreclosed upon some time after March 2009 (Item 5).³

Applicant's March 2014 clearance application (Item 2) reported no delinquent debts. During his subject interview with a Government investigator in June 2012, he acknowledged his debts and attributed them to his unemployment. He stated his intent to contact a credit counseling agency once he began his employment later in June 2012. He provided no evidence that he had done so. In his July 2015 Answer (Item 3), he claimed to be working with attorneys to address his debts, but provided no corroboration.

Applicant has not documented any contact with his creditors since becoming re-employed in June 2012. He has not documented what actions, if any, he has taken regarding his overall finances since that time. He has stated no plan for addressing his delinquent debts. He provided no budget or financial statement. Applicant has not received any credit counseling or debt consolidation. He 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).

³Applicant lived with his girlfriend, the mother of his son, from June 2007 through March 2009, when he moved out. Applicant has given conflicting statements about who was to continue the mortgage payments, but the house was in Applicant's name and his father's name, not his girlfriend's.

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.⁴

Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to submit sufficient evidence to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.⁵ Applicant's financial problems appear to date from at least November 2009, when he was unemployed for over two years. However, Applicant has been re-employed since June 2012. There is no evidence of any efforts by Applicant to resolve the debts.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the immediate cause of his problems may be unlikely to recur if he remains employed.⁶ Applicant's two years unemployment was certainly beyond his control, but he has not demonstrated that he has been responsible in addressing his debt.⁷ Nor did he provide any insight into why he remained unemployed as long as he did.

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁸ There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he

⁴See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

⁷¶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;

⁸¶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;

cannot establish that he has made a good-faith effort to address his debts.⁹ Moreover, Applicant has mostly disregarded these financial obligations since becoming re-employed in October 2012. His documented inaction for over three years raises significant security concerns that Applicant has not begun to address. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-l:	Against Applicant

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

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