



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



In the matter of:	)	
	)	
XXXXX, Xxxxx Xxxxxxx	)	ISCR Case No. 14-00428
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: David F. Hayes, Esquire, Department Counsel  
For Applicant: *Pro se*

08/21/2014

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

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

On 11 March 2014, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 3 June 2014, and I convened a hearing 3 July 2014. DOHA received the transcript (Tr.) 14 July 2014.

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<sup>1</sup>Consisting of the transcript (Tr.), Government exhibits (GE) 1-6, and Applicant exhibit (AE) A. AE A was timely received post hearing. The record in this case closed 23 July 2014, when Department Counsel indicated no objection to AE A.

<sup>2</sup>DoD 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 allegations, except for SOR 1.a, which he denied as not belonging to him. He is a 33-year-old senior communications specialist employed by a defense contractor since June 2013. He has not previously held a security clearance, although he held a public trust position in 2007.

The SOR alleges, and Government exhibits establish, eight delinquent debts totaling just over \$24,000. Applicant denied SOR debt 1.a for \$19,252, claiming it belonged to his father. AE A documents that the debt was removed from his credit file in June 2014. Applicant admitted the remaining debts, but documented that he had paid three debts totaling \$475 (SOR 1.e, 1.f, and 1.h) in September 2013. Consequently, the debts at issue total \$4,500.

Applicant attributes his delinquent debts to periods of unemployment from August 2011 to October 2011, October 2012 to March 2013, and March 2013 to July 2013. From March 2013 to May 2013, he was only employed part time by his current employer (GE 4). His current employment is less than full time because his lack of a clearance limits some of his work assignments.

Applicant is currently \$3,799 past due on his child support payments (SOR 1.b)(AE A). At the time of the SOR, his child support payments were \$3,279 past due (GE 2), based on the credit report being used to draft the SOR. However, his most recent credit report shows that he was \$3,799 past due when the SOR was issued, having made a lump-sum payment of \$3,430 on 1 March 2014. This lump-sum payment was made when his state and federal income tax refunds were intercepted and seized by the local jurisdiction. Since he became re-employed in July 2013, Applicant made his required monthly payment only once between August 2013 and March 2014, when he paid \$500 in August 2013. His most recent credit report reflects subsequent monthly payments: September 2013, \$250; October 2013, \$0; November 2013, \$150; December 2013, \$0; January 2014, \$0; February 2014, \$150; March 2014, \$3,430; April 2014, \$0; and May 2014, \$150. This payment record belies Applicant's claim that he has been paying his monthly \$500 child support and \$150 arrears since becoming employed (Tr. 31-32).

Applicant has made no payments on the debt at SOR 1.c. He claims, without corroboration, to have a settlement offer from the creditor—one that he is unable to take advantage of. He also claims, again without corroboration, to be making regular payments on the two insurance company debts at SOR 1.d and 1.g.

Applicant has no retirement account at work, and has no savings. He is living at home with his parents to conserve funds. He has received no credit or financial counseling. He provided no work or character references.

## Policies

The adjudicative guidelines (AG) list factors to evaluate 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 show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. 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, disputed 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 required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.<sup>3</sup>

## Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has \$4,500 in delinquent debt that he voluntarily incurred, has yet to resolve, and seems unlikely to be able to resolve in the foreseeable future.<sup>4</sup>

In addition, the mitigating conditions for financial considerations provide Applicant little help. His financial difficulties are recent and not infrequent, and may be likely to recur.<sup>5</sup> While the circumstances that caused Applicant's indebtedness were certainly beyond his control, he cannot be considered to have acted responsibly in addressing his debts under the circumstances. Resolving the debt (1.a) improperly attributed to him

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

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

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

aside, Applicant has managed to pay only three small debts totaling \$500.<sup>6</sup> The child support payments he has made are inadequate to keep his account current, much less address his arrears, and the only reason he is not further behind on those payments is because the local jurisdiction seized his 2013 state and federal tax refunds. He has not documented any claimed payments on his insurance debts, and has taken no action on the remaining debt. Further, his limited child support payments are insufficient to show good faith in attempting to resolve that debt, much less the other debts, in the reasonably foreseeable future.<sup>7</sup>

The concern with Applicant is that while he credibly stated his intent to resolve these debts, the length of time realistically projected to accomplish this task raises doubts about Applicant's ability to resolve these debts. Applicant has submitted no budget detailing how he might address his delinquent child support payments, much less his other debts. He has not received any credit or financial counseling. He certainly has not demonstrated that these delinquent debts are being resolved in an expeditious manner.<sup>8</sup> Further, he has no favorable character and work references to establish a "whole-person" analysis supporting a favorable clearance action. I conclude Guideline F against Applicant.

### Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph a:	For Applicant
Subparagraphs b-d:	Against Applicant
Subparagraphs e-f:	For Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	For 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.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>6</sup>¶ 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;

<sup>7</sup>¶ 20 (d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts;

<sup>8</sup>¶ 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;