



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



In the matter of:)
)
 XXXXXXX, Xxxxxx Xxxxx) ISCR Case No. 14-01549
)
 Applicant for Security Clearance)

Appearances

For Government: John Bayard Glendon, Esquire, Department Counsel
For Applicant: *Pro se*

07/17/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 14 July 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 10 April 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 17 June 2015.

¹Consisting of the File of Relevant Material (FORM), Items 1-7,

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 29-year-old field engineer employed by a U.S. defense contractor since January 2013. He has not previously held a clearance. He was unemployed from June 2012 to January 2013. Before that, he was employed from August 2008 to May 2012, albeit in a part-time position with low pay and no benefits.

The SOR alleges, Government exhibits (Items 3-4) substantiate, and Applicant admits nine delinquent debts totaling over \$157,000. The debts consist of five delinquent education loans for over \$152,000, two judgments for nearly \$4,600, and two consumer debts for nearly \$500.

Applicant's November 2013 clearance application (Item 3) reported a \$3,600 student loan default. Applicant attended an engineering school from August 2004 to May 2008, but did not graduate. The record does not indicate whether Applicant made any payments on his education loans before they defaulted.

Applicant has not documented any contact with his creditors since becoming re-employed in January 2013. He has stated no plan for addressing his delinquent debts. He provided no budget or financial statement. Applicant has not received any financial or credit counseling. 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).

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 an extensive history of financial difficulties, which are ongoing, and seem unlikely to be resolved any time soon.⁴ Applicant’s financial problems appear to date from at least June 2012, when he was unemployed for six months. However, Applicant has been re-employed since January 2013. 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.⁵ Applicant’s six months unemployment was certainly beyond his control, but he has not been responsible in addressing his debt.⁶ Applicant has had no credit or financial counseling, and his debts are clearly not being resolved.⁷ There are no signs that Applicant has been in contact with any of his creditors, and thus he cannot establish that he has made a good-faith effort to address his debts.⁸ Moreover, Applicant has mostly disregarded these financial obligations since becoming re-employed in January 2013. His documented inaction for over two years raises significant security concerns that Applicant has not begun to address. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

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|---------------------------|-------------------|
| Paragraph 1. Guideline F: | AGAINST APPLICANT |
| Subparagraphs a-i: | 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