



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



In the matter of:)	
)	
XXX, XXXXXXXX XXXXX)	ISCR Case No. 14-05255
)	
Applicant for Security Clearance)	

Appearances

For Government: Caroline E. Heintzelman, Esquire, Department Counsel
For Applicant: *Pro se*

07/21/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 12 November 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 19 May 2015, when Department Counsel indicated no objection to Applicant's response to the FORM. DOHA assigned the case to me 17 June 2015.

¹Consisting of the File of Relevant Material (FORM), Items 1-6.

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. She is a 44-year-old facility administrator employed by a U.S. defense contractor since April 1998. She seeks to retain the clearance she has apparently held since April 2009.

The SOR alleges, Government exhibits (Items 2-5) substantiate, and Applicant admits eight delinquent debts totaling nearly \$29,000. The debts consist of delinquent education loans. SOR debts 1.a-1.c appear to allege only the past-due balances.³ Applicant also admits filing for Chapter 7 bankruptcy protection in September 2013, and receiving a discharge of approximately \$122,000 in delinquent debt in December 2013.

Applicant's April 2014 clearance application (Item 2) reported her bankruptcy and her delinquent student loans. She stated that she had not made any payments on her education loans. In both her Answer and her response to the FORM, Applicant claimed to have rehabilitated several of the education loans. However, she provided no corroboration of these claims. She appears to have incurred the education loans between January 2003 and April 2008, while she was in school earning her associate's degree, which she obtained in April 2008.

Applicant attributed her financial problems to her husband's unemployment in 2005, when he was out of work for four or five months (Item 3). When he obtained a new job, it was at a lower salary than he had been making. However, her February 2004 sworn statement to a Government investigator (Item 6), taken during her earlier background investigation, reflects that her financial problems date to at least before 2004.

Applicant has not documented any contact with her creditors since her bankruptcy was completed. She has stated no plan for addressing her delinquent debts. She provided no budget or financial statement. Applicant has not documented any financial or credit counseling, beyond what she received as part of the bankruptcy process. She 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,

³Because of the way Government-backed education loans are originated, disbursed, fallen delinquent, and subsequently rehabilitated (if they are rehabilitated), credit report entries may or may not accurately reflect the loan balances due. SOR debts 1.e-1.h appear to reflect five distinct disbursements from two different lenders, now in collection with the Government's collection agent. Whether these loans overlap in any way with SOR debts 1.a-1.c is unknown without any input from Applicant.

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 judgment, 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 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.⁵ Applicant's financial problems appear to date to before 2004, when they were addressed by an earlier background investigation. Her financial problems continued, eventually resulting in the bankruptcy filing in September 2013. Applicant has not really explained how her husband's short period of unemployment in 2005 led to their bankruptcy in 2013. Even if he was making less money than before, eight years is more than enough time to adjust your budget to account for the lower income.

Applicant meets none of the mitigating conditions for financial considerations. Her financial difficulties are both recent and multiple, and to the extent that her problems seem to be related to her inability or unwillingness to live within her means, they are likely to continue.⁶ Her husband's brief unemployment was certainly beyond her control, but she has not documented being responsible in addressing her debt since he became re-employed.⁷ Applicant has had no credit or financial counseling beyond what was

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;

required during the bankruptcy process, and her education loans—which were not dischargeable in bankruptcy—are clearly not being resolved.⁸ Applicant has not documented any of her claimed contacts with her education lenders, or the claimed payments, and she failed to establish that she has made a good-faith effort to address her debts.⁹ Moreover, Applicant has no demonstrated track record of living within her means. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-i: 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

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;

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