



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



In the matter of:)	
)	
XXXXXXXX, XXXXXXXX, XXX)	ISCR Case No. 15-00204
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah A. Minster, Esquire, Department Counsel
For Applicant: *Pro se*

03/31/2016

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 15 August 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations, and Guideline E, Personal Conduct.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 9 December 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 11 March 2016.

¹Consisting of the File of Relevant Material (FORM), Items 1-5, prepared by Department Counsel on 26 October 2015 and mailed to Applicant.

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 SOR allegation 1.a. He denied SOR allegation 1.b because he did not recognize the debt. He also denied paragraph 2. He is a 42-year-old painter employed by a U.S. defense contractor since April 2014. He was previously employed in similar positions since February 2004. He served on active duty in the U.S. military from November 1994 to November 1999. There is no record of his having held a clearance while serving in the military. He has not previously held an industrial clearance. He is single and has no children.

The SOR alleges, and Government exhibits (Items 3-5) substantiate, two delinquent debts totaling nearly \$44,000. Applicant admitted a \$2,832 debt to a Government agency, but claimed in his Answer (Item 1) to have reduced the balance to \$1,828. He provided no corroboration for this claim.

Applicant's April 2014 clearance application (Item 2) reported no financial problems. Applicant was questioned about his April 2014 credit report (Item 5) during his June 2014 interview with a Government investigator (Item 3). Applicant told the investigator that he did not remember any debts when he completed the clearance application.³ However, during Applicant's interview, he acknowledged several other delinquent debts, including two delinquent credit cards that had been sold to other lenders. The creditor for SOR 1.b asserts its claim for an amount it purchased from the original creditor, but assigns a different account number than the credit card that Applicant acknowledges.⁴ The two credit cards and two collection agents report that the last activity on these accounts was June 2007. Consequently, none of the accounts appear on Applicant's August 2014 credit report (Answer) or his November 2014 credit report (Item 4).

Applicant offered no real explanation for his delinquent debts. Indeed, he thought some of the debts may have been his father's (who shares a name with Applicant) or may have been resolved by his father (Item 3). However, like his other claims, he provided no corroboration of his claims.

Applicant did not provide a current financial statement or budget. He has not documented any financial or credit counseling. He provided no work or character references, or any evidence of community involvement. He documented no contacts with his creditors.

³The Government produced no evidence of an April 2013 clearance application as alleged in SOR 2.a.

⁴The other credit card Applicant discussed during his interview was sold to a different collection agent, but both the account numbers and balances match exactly. However, this debt was not alleged in the SOR.

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.⁵

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.⁶ Applicant's financial problems appear to date from at least 2007.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; and the immediate causes of his problems may be likely to recur, as he identified no particular cause for his inability to keep up payments on his debts.⁷ Applicant identified no circumstances beyond his

⁵See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

control, and he has not demonstrated that he has been responsible in addressing his debt.⁸

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁹ There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.¹⁰ Moreover, Applicant has mostly disregarded these financial obligations since he obtained a copy of his credit report in August 2014. He did not document his claimed action on SOR 1.a, and has done nothing to address SOR 1.b. The fact that this debt appears of have aged off his credit reports does not extinguish his responsibility for this debt from a clearance perspective. Moreover, Applicant failed to provide any documentation of his past military service, current employment performance, or work or character references upon which I might base a favorable “whole-person” analysis. Accordingly, I conclude Guideline F against Applicant.

The Government failed to establish a case for disqualification under Guideline E. The Government alleged that Applicant falsified a 10 April 2013 clearance application, an allegation Applicant denied, noting that his clearance application was dated 18 April 2014. The Government produced no April 2013 clearance, and made no reference to the April 2014 clearance application in the FORM, or indeed any reference at all to an alleged falsification. I might fairly infer that the Government had abandoned its falsification allegation. Further, there is nothing in Applicant’s 2014 clearance application to connect it to 2013. Moreover, even if I stretched the SOR beyond all recognition to amend the SOR to allege a falsification of his April 2014 clearance application, I would accept his explanation that he did not remember any of the accounts at the time he completed his clearance application. Consequently, he did not commit a deliberate omission or evasiveness inconsistent with the candor required of applicants.¹¹ Accordingly, I resolve Guideline E for Applicant.

⁸¶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;

⁹¶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;

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

¹¹¶ 6 (a) deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-b:	Against Applicant
Paragraph 2. Guideline E:	FOR APPLICANT
Subparagraph a:	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.

JOHN GRATTAN METZ, JR
Administrative Judge