

DATE: May 23, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-05139

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Matthew E. Malone, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

In view of the formal guidelines set forth in the Directive, as well as the "clearly consistent with the national interest" standard that must be followed in DOHA proceedings, applicant's current financial condition precludes a finding that he is currently eligible for access to classified information. Clearance is denied.

STATEMENT OF THE CASE

On November 2, 2001, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

Applicant responded to the SOR in writing on February 2, 2002. The case was assigned to the undersigned on March 11, 2002. A Notice of Hearing was issued on March 22, 2002, and the hearing was held on April 18, 2002. The transcript was received on April 29, 2002.

FINDINGS OF FACT

Applicant is thirty-seven years old. He is employed as a truck driver by a defense contractor.

SOR Allegation 1a: Applicant is still indebted to this creditor in the amount of \$492.00 for two delinquent accounts that were referred to a collection agency in 1995.

SOR Allegation 1b: Applicant is still indebted to this creditor in the amount of \$703.00. This debt was charged off as a bad debt in 1997.

SOR Allegation 1c: Applicant is still indebted to Chrysler Credit Corporation in the approximate amount of \$9,003.00. This debt arose after applicant's car was repossessed and then sold at auction in 1997 for less than what he still owed on the original car loan.

SOR Allegation 1d: Applicant is still indebted to this creditor in the amount of \$1,872.00. This delinquent debt was referred to collection in February 1999.

SOR Allegation 1e: Exhibit 6 establishes that applicant was indebted to this creditor in the amount of \$1,073.00 in May 2001. Testimony from applicant's wife (TR at 28) and Exhibit A establish that the debt has been reduced to \$359.50.

SOR Allegation 1f: Applicant was indebted to this creditor in the amount of \$3,136.64. Applicant's wife testified that this debt is really an "insurance issue." She further testified that she and applicant were making payments to the creditor, but offered no documents to corroborate her testimony (TR at 31).

SOR Allegation 1g: Exhibit 4 establishes that applicant was indebted to this creditor in the amount of \$1,037.96 in August 2000. Testimony from applicant's wife (TR at 22-26, 31-34) and Exhibit D establish that the debt was reduced to either \$314.84 or \$144.00 after applicant's insurance company made at least one additional payment to the creditor.

SOR Allegation 1h: Exhibits 2 and 5 establish that applicant was indebted to this creditor in the amount of \$4,378.50 in August 2000, and in the amount of \$5,534.00 in July 2001. Testimony from applicant's wife (TR at 26-27, 36-37) and Exhibit C establish that the debt has been satisfied.

Applicant's serious financial difficulties are largely the result of a divorce in late 1996 or 1997, and some very serious medical problems recently experienced by applicant and his current wife. The medical problems experienced by applicant's wife have left her unable to work since March 2001 (TR at 51-52). Although applicant has three or four hundred dollars left over every month, he is using that money to pay off recently incurred medical bills (TR at 58-59). There appears to be little chance that applicant will be able to satisfy his long-standing debts anytime soon. ⁽¹⁾

POLICIES

Enclosure 2 of the Directive sets forth Guidelines (divided into conditions that could raise security concerns and conditions that could mitigate security concerns) which must be followed by

the Administrative Judge. Based on the foregoing Findings of Fact, the following conditions are applicable:

Financial Considerations

Disqualifying Conditions:

1. A history of not meeting financial obligations.
2. Inability or unwillingness to satisfy debts.

Mitigating Conditions:

3. The conditions that resulted in the behavior were largely beyond the person's control.

CONCLUSIONS

The evidence establishes that applicant is currently indebted to at least seven different creditors in a total amount well in excess of \$12,500.00. The evidence further establishes that all of these debts are past-due, and that applicant has made little progress toward satisfying them.

Applicant's recognition that he is responsible for these debts, and his stated intention to satisfy them, are positive factors.

The fact that his past-due indebtedness, and his continuing inability to satisfy these long-standing debts, are in large part the result of factors beyond his control, is certainly a mitigating factor. The fact remains, however, that applicant has been under severe financial duress for many years, and that in all likelihood, he will continue to be under severe financial duress for the foreseeable future. In view of the formal guidelines set forth in the Directive, as well as the "clearly consistent with the national interest" standard that must be followed in DOHA proceedings, applicant's current financial condition precludes a finding that he is currently eligible for access to classified information.

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

DECISION

In light of all 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.

Joseph Testan

Administrative Judge

1. Even the progress applicant has made so far toward satisfying the debts listed in the SOR is not as promising as it appears. The only payment actually made by applicant to any of the creditors listed in the SOR was a \$69.16 payment made in March 2002. The other payments were made by applicant's insurance company (TR at 48; Exhibit B).