

KEYWORD: Financial; Personal Conduct

DIGEST: Applicant's falsification of her clearance application and financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

CASENO: 02-29461.h1

DATE: 08/02/2004

DATE: August 2, 2004

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-29461

DECISION OF ADMINISTRATIVE JUDGE

JOHN GRATTAN METZ, JR.

APPEARANCES

FOR GOVERNMENT

Nyginé T. Mills, Esquire, Department Counsel

FOR APPLICANT

SYNOPSIS

Applicant's falsification of her clearance application and financial irresponsibility renders her an unsuitable candidate for a security clearance. Clearance denied.

STATEMENT OF THE CASE

Applicant challenges the 12 January 2004 Defense Office of Hearings and Appeals (DOHA) Statement of Reasons (SOR) recommending denial or revocation of her clearance because of financial considerations and personal conduct. [\(1\)](#) Applicant answered the SOR in February 2004 and requested a decision without hearing. She did not respond to DOHA's 28 May 2004 File of Relevant Material (FORM). The record closed 10 July 2004, when the response was due. DOHA assigned the case to me 28 July 2004.

FINDINGS OF FACT

Applicant admitted the allegations of the SOR, except for 1.d., but denied intending to falsify her clearance application. Accordingly, I incorporate her admissions as findings of fact. She is a 43-year-old bookkeeper currently employed as a switchboard operator for a defense contractor since May 2002. She has never applied for a clearance before.

When Applicant applied for her security clearance in February 2002, she disclosed a June 1997 garnishment (question 34), an August 1995 repossession (question 35) and one 90-day delinquent account for \$345.00 incurred in June 1999 (question 39). She failed to disclose eight other debts totaling over \$16,000.00 that were both currently 90-days delinquent (question 39) and 180-days delinquent (question 38). When interviewed by the Defense Security Service in July and August 2002, she acknowledged the debts and attributed them to separating from the father of her children in 1996. Of the nine debts alleged, two fell delinquent in 1996, two fell delinquent in 1997, two fell delinquent in 1999, two fell delinquent in 2000, and one fell delinquent in 2001. Although Applicant claims to have entered into repayment

agreements with some of her creditors, there is no evidence to corroborate her claim and no evidence of any payments to the creditors listed. Applicant's answer claims she omitted the eight debts from her clearance application because she could not remember the precise amounts owed.

POLICIES

The Directive, Enclosure 2 sets forth adjudicative guidelines to be considered in evaluating an Applicant's suitability for access to classified information. The Administrative Judge must take into account both disqualifying and mitigating conditions under each adjudicative issue fairly raised by the facts and circumstances presented. Each adjudicative decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3. of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed whenever a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and the evidence as a whole, I conclude the relevant, applicable, adjudicative guidelines are Guideline F (Financial Considerations) and Guideline E (Personal Conduct).

BURDENS

A clearance decision resolves whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then 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.

A person with access to classified information enters into a fiduciary relationship with the government based on trust and confidence. The government, therefore, 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. ⁽²⁾

CONCLUSIONS

The Government established a Guideline F case and Applicant did not mitigate the security concerns. Although the separation from the father of her children might reasonably be seen as beyond her control,⁽³⁾ Applicant's delinquencies have consistently grown from 1996 to at least 2002. There is no evidence that she has sought credit counseling, entered into repayment agreements, or made any payments to creditors.⁽⁴⁾

It also appears she may lack the means to address her indebtedness. Nevertheless, it is not clear that she has stopped digging herself into a financial hole, much less begun to dig herself out. I conclude Guideline F against Applicant.

The government established a Guideline E case and Applicant did not mitigate the security concerns. Applicant stated she was aware of her debts, but unsure of the amounts. However, the number (8) and amount (over \$16,000.00) of debts omitted convinces me Applicant intended to misrepresent the extent of her financial difficulties.⁽⁵⁾ The other adverse financial information she disclosed does not contain any information to suggest the extent of her financial problems. I conclude Guideline E against Applicant.

FORMAL FINDINGS

Paragraph 1. Guideline F: AGAINST THE APPLICANT

Subparagraph a: Against the Applicant

Subparagraph b: Against the Applicant

Subparagraph c: Against the Applicant

Subparagraph d: Against the Applicant

Subparagraph e: Against the Applicant

Subparagraph f: Against the Applicant

Subparagraph g: Against the Applicant

Subparagraph h: Against the Applicant

Subparagraph i: Against the Applicant

Paragraph 2. Guideline E: AGAINST THE APPLICANT

Subparagraph a: Against the Applicant

Subparagraph b: 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.

John G. Metz, Jr.

Administrative Judge

1. Required by Executive Order 10865 and Department of Defense Directive 5220.6, as amended (Directive).
2. *See Department of the Navy v. Egan*, 484 U.S. 518 (1988).
3. E2.A6.1.3.3. The conditions that resulted in the behavior were largely beyond the person's control (e.g. loss of employment. . .).
4. E2.A6.1.2.1. A history of not meeting financial obligations; E2.A6.1.2.3. Inability or unwillingness to satisfy debts;
5. E2.A5.1.2.2. The deliberate omission, concealment, or falsification of relevant and material facts from [written form]. . . used to conduct investigations, . . . [or] determine security clearance eligibility or trustworthiness. . . ;