

DATE: June 28, 2004

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In Re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 02-15127

**DECISION OF ADMINISTRATIVE JUDGE**

**ROGER E. WILLMETH**

**APPEARANCES**

**FOR GOVERNMENT**

Catherine M. Engstrom, Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant has only established her resolution of two of the ten delinquent debts addressed by the SOR that amount to \$1,541.00 of the \$9,905.00 of indebtedness. After ample opportunity, her failure to document her assertion that she is back on regular payments of \$73,144.00 student loan creates doubt as to whether she has done so. So to does her failure to demonstrate improved financial status by documenting that she has paid off a car loan. Supporting two children, including an autistic child, as a single parent, as well as her mother undoubtedly contribute to her financial condition. However, these circumstances do not totally excuse her failure to mitigate her indebtedness by at least demonstrating a functioning plan for resolving it. Clearance is denied.

**STATEMENT OF THE CASE**

On August 18, 2003, the Defense Office of Hearings and Appeals (DOHA), pursuant to the applicable Executive Order (1) and Department of Defense Directive, (2) issued a Statement Reasons (SOR) to Applicant. The SOR details security concerns under Guideline F (Financial Considerations). The SOR states that DOHA was unable to find that it is clearly consistent with the national interest to grant her access to classified information and recommends that her case be submitted to an Administrative Judge.

On September 26, 2003, Applicant responded to the SOR and requested a hearing. The case was assigned to me on January 8, 2004. A notice of hearing was issued on February 6, 2004 and the hearing was held on February 24, 2004. During the hearing, six Government exhibits (Govt Ex) and the testimony of Applicant were received. The transcript (Tr) was received on March 12, 2004.

**PROCEDURAL ISSUE**

Without objection by Department Counsel, I granted Applicant until March 23, 2004 to provide further documentation of debt payments. As of this date, I have not received further documentation from Applicant.

## FINDINGS OF FACT

Having thoroughly considered the evidence in the record, I make the following findings of fact:

Applicant is a 35-year-old database analyst employed by a defense contractor. She is seeking a security clearance.

Applicant is a single parent with two children, an eight-year-old autistic son and a one-year-old daughter. Although she has medical insurance, Applicant incurs an unspecified amount of medical cost for her son. She receives approximately \$100.00 per month support from the father of her daughter. Applicant provides approximately \$200.00 per month support to her mother, who is not in good health and whose only other means of support is Social Security.

In September 1997, Applicant incurred a debt for medical services in the amount of \$509.00. The account was transferred to a debt collector. On March 13, 2003, Applicant paid the account in full with a payment of \$600.00 (SOR ¶ 1.h).

Applicant had a brief period of unemployment from March until June 1999. In May 1999, Applicant incurred a debt for medical services in the amount of \$64.00. The account was transferred to a debt collector. On April 10, 2003, Applicant paid \$50.00 on the account, reducing the balance owed to \$14.00 (SOR ¶ 1.e).

By February 2000, Applicant had incurred a debt in the amount of \$1,032.00 to a jewelry store. The account was transferred to a debt collector. On September 11, 2003, Applicant paid \$600.00 to settle the account in full (SOR ¶ 1.i).

In July 2000, Applicant incurred a consolidated student loan in the amount of \$73,144.00 (SOR ¶ 1.g). In July 2003, Applicant was 120 days delinquent in her payments on the loan. In February 2003 she made a \$40.00 payment on this account and from March through September 2003, she made seven additional payments of \$20.00 each.

By August 2000, Applicant had incurred a debt of \$211.00 for telephone service that she has not paid. The account was transferred to a debt collector (SOR ¶ 1.d).<sup>(3)</sup>

By September 2000, Applicant had incurred a debt of \$684.00 telecommunications services. The account was transferred to a debt collector. On April 11, 2003, Applicant paid \$50.00 on the account, reducing the balance owed to \$634.00 (SOR ¶ 1.c).

By December 2000, Applicant had incurred a debt of \$182.00 to a department store. She became delinquent on the account and it was transferred to a debt collector. Applicant has not paid the debt (SOR ¶ 1.f).

On November 12, 2001, Applicant incurred debts of \$354.00 (SOR ¶ 1.a) and \$421.00 (SOR ¶ 1.b) for emergency medical services. Neither obligation has been paid and both accounts were transferred to a debt collector. On September 23, 2003, Applicant submitted a medical insurance claim for the debt addressed by SOR ¶ 1.a.

By February 2002, Applicant had incurred a \$713.00 debt on a credit card. She became delinquent on the account and it was transferred to a debt collector. Applicant has not paid the debt (SOR ¶ 1.j).

On April 1, 2002, Applicant executed an agreement with a consumer credit counseling service. She undertook to repay approximately \$1,764.00 of indebtedness by making monthly payments of \$82.00. Applicant did not complete the agreement.<sup>(4)</sup>

April 11, 2003, Applicant submitted a response to the Government's interrogatories. Her personal financial statement reflects a negative remainder of \$72.36 after subtracting her monthly debts and expenses from her total monthly income (SOR ¶ 1.k).

## POLICIES

Department Counsel is responsible for presenting witnesses and other evidence to establish facts alleged in the SOR that have been controverted. Directive E3.1.14. The applicant is responsible for presenting witnesses and other evidence to

rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision. Directive E3.1.15.

Eligibility for access to classified information is predicated upon an individual meeting adjudicative guidelines discussed in Enclosure 2 of the Directive. An evaluation of whether an applicant meets these guidelines includes the consideration of a number of variables known as the "whole person concept." Available, reliable information about the person, past and present, favorable and unfavorable, should be considered in reaching a decision. This assessment should include the following factors: (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence. Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of national security. Directive E2.2.2.

Enclosure 2 provides conditions for each guideline that could raise a concern and may be disqualifying, as well as further conditions that could mitigate a concern and support granting a clearance. The following guidelines are applicable to this case.

#### Guideline F: Financial Considerations

The concern is that an individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Conditions that could raise a security concern and may be disqualifying include E2.A6.1.2.1, a history of not meeting financial obligations (Disqualifying Condition 1). They also include E2.A6.1.2.3, inability or unwillingness to satisfy debts (Disqualifying Condition 3).

Conditions that could mitigate security concerns include E2.A6.1.3.1, the behavior was not recent (Mitigating Condition 1), and E2.A6.1.3.3, the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation) (Mitigating Condition 3). They also include E2.A6.1.3.6, the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts (Mitigating Condition 6).

### CONCLUSIONS

The record documents ten delinquent debts of Applicant that total approximately \$9,905.00. This establishes a history of Applicant not meeting her financial obligations as well as an inability or unwillingness to satisfy debts. It raises both Disqualifying Condition 1 and Disqualifying Condition 3.

Applicant's major indebtedness is her \$73,144.00 student loan (SOR ¶ 1.g). For most of 2003, she was only able to pay \$20.00 per month on this loan. During that year, she became at least 120 day delinquent in the amount of \$5,785.00. Applicant testified she had increased her monthly payment to \$150.00 beginning in November or December 2003 and was now on a regular payment plan on the loan. However, Applicant did not provide documentation of this even though she was given ample opportunity to do so. Her failure to provide corroboration of the payments creates doubt as to whether she has been making them. In accordance with E2.2.2. of the Directive, such doubt must be resolved in favor of national security.

Applicant has paid off two of the delinquent debts addressed by the SOR that total \$1,541.00 (SOR ¶ 1.h and i). However, she has only documented additional payments of \$50.00 each on two of the remaining seven delinquent debts addressed by the SOR (SOR ¶ 1.c and e).<sup>(5)</sup> Applicant testified she reached an agreement on settling a credit card account without incurring additional interest by paying \$50.00 per month (SOR ¶ 1.j). However, she provided no documentation of either the agreement or the payment. Once again, this creates doubt concerning her assertions.

In April 2003, Applicant provided a personal financial statement that reflects a negative remainder of \$72.36 (SOR ¶ 1.k). She testified that she is now much better off because she paid off her automobile loan in September 2003, relieving

<sup>(6)</sup>

her of a \$677.00 per month payment. However, Applicant did not avail herself of the opportunity to provide documentation. Her failure to do so creates further doubt as to whether her financial status has significantly improved.

It is commendable that Applicant not only provides for her children, including an autistic child, but her mother as well. Her cost for her son's condition, as well as support for her mother, undoubtedly contribute to her financial condition. However, they do not totally excuse her of the responsibility for resolving her delinquent indebtedness. Based on Applicant's failure to mitigate her indebtedness by at least demonstrating a functioning plan for resolving it, I find against Applicant.

### **FORMAL FINDINGS**

Formal findings, as required by section E3.1.25 of Enclosure 3 of the Directive, are as follows:

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraph 1.b: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against Applicant

Subparagraph 1.e: For Applicant

Subparagraph 1.f: Against Applicant

Subparagraph 1.g: Against Applicant

Subparagraph 1.h: For Applicant

Subparagraph 1.i: For Applicant

Subparagraph 1.j: Against Applicant

Subparagraph 1.k: Against Applicant

### **DECISION**

In light of the evidence of record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant.

*Signed*

**Roger E. Willmeth**

**Administrative Judge**

1. Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended.
2. Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified.
3. Although Applicant paid the same amount to a debt collector on March 14, 2003, it is not the debt collector for this account.

4. Applicant testified she did not complete the agreement because she wanted to accomplish the repayments on her own. She also testified she contacted the consumer credit counseling service in September 2003 about establishing another agreement but did not do so.

5. Her payment of the debt addressed by SOR ¶ 1.c reduces the balance owed to \$14.00.

6. Applicant also testified that since she provided the personal financial statement, her monthly rent has increased by \$110.00, she had increased her monthly student loan payment by \$120.00, and her weekly daycare cost would soon increase by \$125.00.