

KEYWORD: Financial

DIGEST: Applicant's financial problems continue to raise security concerns because of her delay in resolving debts of approximately \$30,000 to twenty creditors. While Applicant's circumstances have some sympathetic elements as she is a single parent and, to her credit, has favorable work references from her supervisor, other managers, and a co-worker, nevertheless Applicant failed to initiate a good-faith effort to repay overdue creditors or otherwise resolve debts in a timely manner. Thus, she has not demonstrated sufficiently that she has made a good-faith effort to resolve all her debts and to reform her financial practices. Clearance is denied.

CASENO: 03-20308.h1

DATE: 10/17/2005

DATE: October 17, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-20308

DECISION OF ADMINISTRATIVE JUDGE

KATHRYN MOEN BRAEMAN

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esquire., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's financial problems continue to raise security concerns because of her delay in resolving debts of approximately \$30,000 to twenty creditors. While Applicant's circumstances have some sympathetic elements as she is a single parent and to her credit has favorable work references from her supervisor, other managers, and a co-worker, nevertheless Applicant failed to initiate a good-faith effort to repay overdue creditors or otherwise resolve debts in a timely manner. Thus, she has not demonstrated sufficiently that she has made a good-faith effort to resolve all her debts and to reform her financial practices. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the Applicant on September 21, 2004. The SOR detailed reasons why the Government could not make the preliminary positive finding that it is clearly consistent with the national interest to grant or continue a security clearance for the Applicant. ⁽¹⁾ The SOR alleges specific concerns over finances (Guideline F). Applicant responded to these SOR allegations in a notarized Answer submitted on October 24, 2004; and she requested a hearing.

After Department Counsel stated the case was ready to proceed on December 28, 2004, the case was assigned to me on January 3, 2005. On February 25, 2005, DOHA issued a Notice of Hearing and set this case to be heard on March 16, 2005, in a city near where Applicant lives and works.

At the hearing the government offered six exhibits (Exhibits 1-6) which were admitted into evidence without objection.

(TR 9-13) Applicant testified and called one witness; she offered five exhibits (Exhibits A-E) which were admitted into evidence without objection. Applicant was given an extension of 37 days until April 22, 2005, to submit additional evidence; and the Department Counsel was given two days to review the evidence and submit his comments. (TR 39-40, 52) On April 22, 2005, Applicant requested an additional six months to submit her evidence. As Department Counsel stipulated on May 5, 2005, that he had no objection, on May 16, 2005 I issued an Order allowing her six months from the date of the hearing until September 15, 2005, to submit additional evidence. No additional evidence was submitted, and the record closed on September 15, 2005. The transcript (TR) was received on March 24, 2005.

FINDINGS OF FACT

After a complete and thorough review of the evidence in the record, and upon due consideration of that evidence, I make the following findings of fact:

Applicant, 29 years old, was employed by Defense Contractor #1 in State #1 as a clerk from May 2000 to present. She completed a Security Clearance Application (SF 86) on February 4, 2002. (Exhibit 1; TR 26) Applicant is single and has a child born in 1999 and another born in 2000. (Exhibit 1; TR 22, 25)

Finances

On the SF 86 in 2002 Applicant disclosed a repossession in 1998 in response to Question 35 and nine financial delinquencies in response to Question 38. She explained her financial problems began after the birth of her children as she does not receive any child support and does not have enough income to resolve her debts. She stated she did "intend on slowly getting them taken care of." (Exhibit 1) In June 2003 she provided additional updates on her finances to the Defense Security Service (DSS) and disclosed that her monthly expenses exceeded her monthly income of \$1,137. (Exhibit 2) She has not sought child support as she does not want the father of her children to have any contact with them. (TR 23-24; 36-37) In November 2004 her monthly take home income was \$1,084, she had expenses of rent \$375, utilities \$261, insurance \$65, phone and cellular \$62, and living expenses \$280. (Exhibit A)

Applicant initially explained that she has no intent of paying the following debts and that a lawyer in November 2004 advised her against bankruptcy. (Exhibit 2: TR 25, 35-39) In March 2005 she stated she intended to talk to a financial planner to resolve her \$30,000 in debts; she has focused on her current bills and had no additional resources to resolve these earlier debts. She has one credit card with a balance of \$432 and she's thirty days late with payment. She has two cars that are paid for. Her priority is raising her children. (TR 31-34)

SOR 1.a.. Applicant owes \$10,402 to Creditor #1 on a delinquent account that was a balance on a voluntary

repossession in 1998 as she believed the car she bought in 1996 was a "lemon." (Answer; Exhibits 1, 2; TR 22, 24)

SOR 1.b. Applicant owes \$26 to Creditor #2. (Answer; Exhibit 2; TR 27, 46-47)

SOR 1.c. Applicant admitted her debt to Creditor #3 for \$44; in March 2005 she believed she had paid this debt. (Answer; TR 27)

SOR 1.d. Applicant admitted her debt to Creditor #4 for \$71 for a dental debt she intended to pay but could not afford to do so. (Answer; TR 27-28,35)

SOR 1.e. Applicant admitted her debt to Creditor #5 for \$103 for medical expenses. At the hearing she disputed this debt. (Answer; TR 28)

SOR 1.f. Applicant admitted her debt to Creditor #6 for a credit card debt of \$967. (Answer; TR 28)

SOR 1.g. Applicant admitted her debt to Creditor #7, for \$336. (Answer; TR 28)

SOR 1.h. Applicant admitted her debt to Creditor #8 for \$399 for medical costs related to the birth of her child. (Answer; TR 29)

SOR 1.i. Applicant admitted her debt to Creditor #9, a hospital, for \$14,000 for medical costs related to the birth of her child. (Answer; TR 29)

SOR 1.j. Applicant admitted her debt to Creditor #10 for \$412 for medical costs related to the birth of her child. (Answer; TR 29)

SOR 1.k. Applicant admitted her debt to Creditor #11, a bank, for \$542. (Answer; Exhibit 2; TR 29)

SOR 1.l. Applicant admitted her debt to Creditor #12, a store, for \$207. (Answer; TR 29-30)

SOR 1.m Applicant admitted her debt to Creditor #13, a cellular phone company, for \$718. (Answer; TR 30)

SOR 1.n Applicant admitted her debt to Creditor #14, a store for \$208. (Answer; TR 30)

SOR 1.o. She admitted a debt to Creditor #15, a law firm, for \$800 for a delinquent account that was charged off for eye surgery. (Answer; TR 30)

SOR 1.p. Applicant admits her debt to Creditor #16, a hospital, for \$146. (Answer; TR 30)

SOR 1.q. Applicant admitted her debt to Creditor #17, a furniture store, for \$869. (Answer; TR 30-31)

SOR 1.r. Applicant denied her debt to Creditor #18 for \$1,367 which was listed in a 2004 credit bureau report. (Answer; Exhibit 3)

SOR 1.s. Applicant denied her debt to Creditor #19 for \$1,691 which was listed in a 2004 credit bureau report. (Answer; Exhibit 3)

SOR 1.t. Applicant admitted her debt to Creditor #20 for \$399. (Answer; TR)

SOR 1.u. Applicant admitted in 2003 her monthly expenses exceeded her income by \$68.90; subsequently she has received a promotion in May 2004. (Answer; TR 25)

References

The manager of security resources at her company attested that Applicant is security conscientious; she highly recommended Applicant for access to classified information. (Exhibit B)

The Executive Assistant and Corporate secretary commended Applicant as a "reliable and conscientious individual in performing her duties as a mail courier. She has also demonstrated trustworthiness and dedication. . . ." (Exhibit C)

A co-worker who has known Applicant for five years at work and previously knew her in high school testified on Applicant's behalf that she has good character, is a good mother, and is a hard worker. (TR 41-45)

A manager who has know Applicant for three years endorsed her for access to secure materials. (Exhibit D)

Applicant's supervisor has known her for five years and assessed her as a "very trusted employee" with company sensitive and proprietary information. He recommended her for a security clearance. (Exhibit E)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to consider in evaluating an individual's security eligibility. They are divided into conditions that could raise a security concern and may be disqualifying and conditions that could mitigate security concerns in deciding whether to grant or continue an individual's access to classified information. But the mere presence or absence of any given adjudication policy condition is not decisive. Based on a consideration of the evidence as a whole in evaluating this case, I weighed relevant Adjudication Guidelines as set forth below:

Guideline F - Financial Considerations

The Concern: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

The responsibility for producing evidence initially falls on the Government to demonstrate that it is not clearly consistent with the national interest to grant or continue Applicant's access to classified information. Then the Applicant presents evidence to refute, explain, extenuate, or mitigate in order to overcome the doubts raised by the Government, and to demonstrate persuasively that it is clearly consistent with the national interest to grant or continue the clearance. Under the provisions of Executive Order 10865, as amended, and the Directive, a decision to grant or continue an applicant's security clearance may be made only after an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination, the Administrative Judge may draw only those inferences and conclusions that have a reasonable and logical basis in the evidence of record.

CONCLUSIONS

Financial Considerations

The Government established disqualifying conditions that could raise a security concern and may be disqualifying including Applicant's (1) history of financial problems and her (3) inability or unwillingness to satisfy all of her debts. Even after being put on notice in 2003 about the government's concerns over her finances, she has not resolved debts of approximately \$30,000 to twenty creditors. She is a single parent with no child support for her two children. Even after she gained full employment in May 2000, her income was too limited to allow her to make a concerted effort to resolve these debts. While Applicant's circumstances have some sympathetic elements, she failed to develop a plan to resolve all her debts in a timely manner.

Thus she has failed to mitigate⁽²⁾ these financial concerns. Even giving her the benefit of the doubt for disputed debts, still she has only resolved a fraction of the remaining debts which can therefore be mitigated under E2.A6.1.3. 6. (The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.)

Thus, for the remaining debts Applicant has yet to demonstrate that she is financially responsible. For example, Applicant did not show that she has received or is receiving counseling for the problem. While her she explored bankruptcy, she did not take any steps to file a petition as a lawyer in November 2004 advised her against bankruptcy. She accepted his advice that once debts were no longer listed on a credit bureau report that they were no longer her responsibility. While correct legally, security concerns persist over an individual who fails to pay her just debts or live within her means. Consequently, she has failed to establish that she has taken any meaningful steps to resolve her

financial problems.

As the record evidence as a whole must be considered to determine whether Applicant's overall conduct can be mitigated, I have also evaluated her conduct and considered the following factors:

E.2.21.1. The nature, extent, and seriousness of the conduct; E2.2.1.2. The circumstances surrounding the conduct, to include knowledgeable participation; E2.2.1.3. The frequency and recency of the conduct; E2.2.1.4. The individual's age and maturity at the time of the conduct; E2.2.1.5. The voluntariness of the participation; E2.2.1.6. The presence or absence of rehabilitation and other pertinent behavioral changes; E2.2.1.7. The motivation for the conduct; E.2.2.1.8. The potential for pressure, coercion, exploitation, or duress; and E.2.2.1.9. The likelihood of continuation or recurrence. (E.2.2. Adjudication Process)

To her credit Applicant has favorable work references from her supervisor, other managers, and a co-worker. However, even after looking at her as a whole person and considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule against Applicant overall. Even after being given a six month extension of time, she presented no evidence that she has taken steps to change her circumstances, either by seeking child support or seeking protection under the bankruptcy laws. In sum, her financial problems persist as Applicant failed to initiate a good-faith effort to repay overdue creditors or otherwise resolve debts in a timely manner. After considering the Adjudicative Process factors and the Adjudicative Guidelines, I rule for Applicant as she disputed and mitigated the allegations in SOR subparagraphs 1.r and 1.s., but against her under subparagraphs 1.a. through 1.q., and 1.t. and 1.u. under SOR Paragraph 1.

FORMAL FINDINGS

After reviewing the allegations of the SOR in the context of the Adjudicative Guidelines in Enclosure 2 and the factors set forth under the Adjudicative Process section, I make the following formal findings:

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.: Against Applicant

Subparagraph 1.f.: Against Applicant

Subparagraph 1.g.: Against Applicant

Subparagraph 1.h.: Against Applicant

Subparagraph 1.i.: Against Applicant

Subparagraph 1.j.: Against Applicant

Subparagraph 1.k.: Against Applicant

Subparagraph 1.l.: Against Applicant

Subparagraph 1.m.: Against Applicant

Subparagraph 1.n.: Against Applicant

Subparagraph 1.o.: Against Applicant

Subparagraph 1.p.: Against Applicant

Subparagraph 1.q.: Against Applicant

Subparagraph 1.r.: For Applicant

Subparagraph 1.s.: For Applicant

Subparagraph 1.t.: Against Applicant

Subparagraph 1.u.: Against 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 the Applicant. Clearance is denied

Kathryn Moen Braeman

Administrative Judge

1. This procedure is required by Executive Order 10865, as amended, and Department of Defense Directive 5220.6, dated January 2, 1992 (Directive), as amended by Change 4, April 20, 1999.

2. Conditions that could mitigate security concerns include: 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); E2.A6.1.3. 4. . . . there are clear indications that the problem is being resolved or is under control; and E2.A6.1.3. 6. The individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.