

DATE: May 30, 2006

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In Re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 04-08047

**DECISION OF ADMINISTRATIVE JUDGE**

**JOSEPH TESTAN**

**APPEARANCES**

**FOR GOVERNMENT**

Ray T. Blank, Jr., Department Counsel

**FOR APPLICANT**

*Pro Se*

**SYNOPSIS**

Applicant's long-standing financial difficulties, and his failure to disclose material information on a Security Clearance Application (SCA), preclude a finding that it is clearly consistent with the national interest to grant him access to classified information. Clearance is denied.

**STATEMENT OF THE CASE**

On July 29, 2005, 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 September 20, 2005, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel (DC) submitted the Government's written case (FORM) on or about November 28, 2005. Applicant did not file a response to the FORM. The case was assigned to me on January 25, 2006.

**FINDINGS OF FACT**

Applicant is a 46 year old employee of a defense contractor.

Applicant admits SOR Allegations 1a through 1aa without qualification. These allegations are therefore incorporated by reference as Findings of Fact.

Applicant also admits without qualification SOR Allegations 2a through 2d, and 3a through 3f. These allegations are also incorporated by reference as Findings of Fact.

## CONCLUSIONS

With respect to Guideline F, the evidence establishes that applicant is indebted to the numerous creditors listed in the SOR in an amount in excess of \$9,000.00. All of these debts have either gone to judgment or have been placed for collection. Applicant's failure to honor his financial obligations reflects adversely on his judgment and reliability, and suggests he cannot be relied upon to safeguard classified information. With respect to the Financial Considerations guideline, Disqualifying Conditions E2.A6.1.2.1 (*a history of not meeting financial obligations*) and E2.A6.1.2.3 (*inability or unwillingness to satisfy debts*) are applicable.

Once the Government established a *prima facie* case under Guideline F, the burden shifted to applicant to show he has reformed. Because applicant failed to offer any credible evidence that he intends to take any action toward resolving this indebtedness, he did not meet his burden. He does not qualify for any mitigating condition. Guideline F is found against applicant.

With respect to Guideline E, applicant's falsifications of material facts on the SCA, and in the signed, sworn statement he gave to the DSS agent, are extremely troubling. The Government relies heavily on the honesty and integrity of individuals seeking access to our nation's secrets. When such an individual intentionally falsifies material facts on a security clearance application, or in a signed, sworn statement, it is extremely difficult to conclude that he or she nevertheless possesses the good judgment, reliability and trustworthiness required of clearance holders. Applicant's intentional falsifications require application of Disqualifying Condition E2.A5.1.2.2 (*the deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire . . .*) and Disqualifying Condition E2.A5.1.2.3 (*deliberately providing false or misleading information concerning relevant and material matters to an investigator . . .*). No mitigating Conditions apply. Based on the foregoing, Guideline E is found against applicant.

With respect to Guideline J, the evidence establishes that applicant was arrested at least five times from 1978 to May 2002. The evidence further establishes that applicant intentionally provided false, material information in response to three questions on the SCA in 2002, and in the signed, sworn statement in 2004. [\(U\)](#) This conduct reflects adversely on applicant's judgment and reliability, and requires application of Disqualifying Condition E2.A10.1.2.2 (*a single serious crime or multiple lesser offenses*).

The recency and extent of applicant's criminal conduct, particularly his felonious conduct under 18 U.S.C. 1001, precludes application of any mitigating factors under Guideline J, and requires a denial of his security clearance request.

## FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

PARAGRAPH 2: AGAINST THE APPLICANT

PARAGRAPH 3: 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.

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Joseph Testan

Administrative Judge

1. Applicant's intentional falsifications of material facts constitute felonies under 18 U.S.C. 1001.