

KEYWORD: Financial

DIGEST: Applicant has 38 delinquent debts totaling more than \$11,650 that are in collection status, and his expenses exceed his monthly income by \$22. Applicant failed to mitigate security concerns raised by his financial situation. Clearance is denied.

CASENO: 04-09240.h1

DATE: 02/21/2006

DATE: February 21, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-09240

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

Sabrina E. Redd, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has 38 delinquent debts totaling more than \$11,650 that are in collection status, and his expenses exceed his monthly income by \$22. Applicant failed to mitigate security concerns raised by his financial situation. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. As required by Department of Defense Directive 5220.6 ¶ E3.1.2 (Jan. 2, 1992), as amended, DOHA issued a Statement of Reasons (SOR) on 16 September 2005 detailing the basis for its decision-security concerns raised under Guideline F (Financial Considerations) of the Directive. Applicant answered the SOR in writing on 30 September 2005 and elected to have the case decided on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on 1 December 2005. A complete copy of the file of relevant material (FORM) was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant received the FORM on 12 December 2005, but failed to respond within the allotted 30-day time period. The case was assigned to me on 3 February 2006.

FINDINGS OF FACT

Applicant is a 45-year-old employee of a defense contractor. Applicant and his wife are independent truck drivers operating a truck owned by his mother-in-law. He has 38 delinquent debts totaling more than \$11,650 that are in collection status. At least five of the debts are for less than \$44 each and have been in collection status for more than four years. In a financial statement from September 2004, Applicant admitted his monthly expenses exceeded his

monthly income by \$22. Applicant claims most of the debts are for emergency medical expenses incurred while he did not have medical insurance. Applicant asserts he now has medical insurance. Item 3 at 2.

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

In the SOR, DOHA alleged Applicant had 38 delinquent debts in collection status totaling more than \$11,650 (¶¶ 1.a-1.11) and his monthly living expenses exceed his monthly income (¶ 1.mm). In his answer to the SOR, Applicant admitted each of the allegations. An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1.

The Government established by substantial evidence each of the allegations in the SOR. Applicant has a history of not meeting his financial obligations (DC E2.A6.1.2.1) and is unable or unwilling to satisfy his debts (DC E2.A6.1.2.3). An

applicant may mitigate security concerns raised by his financial condition by establishing the delinquent debts resulted from conditions that were largely beyond his control (MC E2.A6.1.3.3); he has received counseling and there are clear indications the problem is being resolved (MC E2.A6.1.3.4), or he has initiated a good-faith effort to repay overdue creditors or otherwise resolve his debts (MC E2.A6.1.3.6). Applicant failed to establish that any of the mitigating conditions apply. Although delinquent debts resulting from emergency medical conditions may have been beyond his control, Applicant failed to provide any documentation of that medical care, its purpose, or what steps he has taken to try to resolve these medical debts. Similarly, Applicant failed to provide a full accounting of his income and expenses or any evidence he sought financial counseling or took steps to try to resolve his financial problems. In short, the record is devoid of any meaningful information that would show Applicant's financial situation has improved. Under the circumstances, I find against Applicant on ¶ 1.

FORMAL FINDINGS

The following are my conclusions as to each allegation in the SOR:

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph 1.a-1mm: Against Applicant

DECISION

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

James A. Young

