

KEYWORD: Financial

DIGEST: Applicant has approximately \$25,000 in delinquent debt, some of which was charged off as far back as 1996. Applicant does not have a budget, is not enrolled in any credit counseling, and is not resolving her debts. Clearance is denied.

CASENO: 04-10381.h1

DATE: 05/31/2006

DATE: May 31, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-10381

DECISION OF ADMINISTRATIVE JUDGE

JAMES A. YOUNG

APPEARANCES

FOR GOVERNMENT

Ray T. Blank Jr., Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has approximately \$25,000 in delinquent debt, some of which was charged off as far back as 1996. Applicant does not have a budget, is not enrolled in any credit counseling, and is not resolving her debts. 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, 1960), as amended, DOHA issued a Statement of Reasons (SOR) on 12 July 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 20 July 2005 and elected to have a hearing before an administrative judge. The case was assigned to me on 14 February 2006. On 25 April 2006, I convened a hearing to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. DOHA received the hearing transcript (R.) on 5 May 2006. I held the record open so that Applicant could make copies of original documents she needed for her personal files, but wanted to present as evidence. By letter dated 10 May 2006, she submitted nine documents, which are admitted into evidence as Exhibit A.

FINDINGS OF FACT

Applicant is a 39-year-old secretary for a defense contractor for which she has worked since 2002. Before that she had worked for a temporary employment agency. She has two daughters, 21 and 19 years old, who still live with her. She divorced her husband in 1995. She married another man in March 2004, but he never lived with her. She is getting ready

to divorce him. R. 17-18. Applicant is attending college part-time, and expects to graduate in 2007. She is supporting her younger daughter who is a college student. She is providing financial assistance to her older daughter, who is also taking college courses part-time. R. 19.

DOHA alleged applicant had seven debts totaling more than \$25,000 that had been charged off as bad debts (§§ 1.a-1.c, 1.f-1.i) and three debts totaling more than \$660 that were in collection status (§§ 1.d, 1.e, 1.j). In her answer, Applicant denied the debt alleged in § 1.a, was unsure the debts alleged in §§ 1.d and 1.j were hers, and admitted the rest.

The \$282 debt alleged in § 1.a is from a car rental company. In 1996, the transmission failed on her car, which was covered by warranty. Applicant was provided a vehicle while hers was being repaired. R. 25. She elected to accept an offer of additional insurance coverage on the vehicle she was loaned, but refused to pay for it. R. 38-39. The debt was charged off in 1996. Her own vehicle was later repossessed. The \$7,800 outstanding balance was charged off in 1997 and is represented in the allegation in § 1.b. R. 26.

The creditor alleged in § 1.d offered to settle Applicant's debt for \$92.54. She presented no evidence that she has acted on the offer. Applicant submitted evidence establishing that she paid the \$368 debt alleged in § 1.e. Ex. A at 4. She asserts she also paid the \$755 debt alleged in § 1.g, but provided no corroboration. R. 28. The other debts remain unpaid.

Applicant consulted a credit counseling service in 2004, but was unable to enroll in the program because she had insufficient financial resources. R. 31, 44. Applicant was earning less than \$28,000 at the time. She now earns more than \$37,900 a year. R. 21. She is unsure how much money she has remaining each month after paying her monthly bills. She estimated it was \$100 (R. 50) or \$240 (R. 52).

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 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 (Jan. 6, 1993). 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 the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

CONCLUSIONS

An applicant who is financially overextended is at risk of having to engage in illegal acts to generate funds. Directive ¶ E2.A6.1.1. Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. It is potentially disqualifying for an applicant to have a history of not meeting financial obligations (DC E2.A6.1.2.1) and by her inability or unwillingness to satisfy her debts (DC E2.A6.1.2.3). The evidence established both of these disqualifying conditions. Applicant provided proof of payment of only one of the delinquent debts alleged in the SOR.

Among the ways an applicant may mitigate financial considerations security concerns is to establish that her financial situation resulted from conditions largely beyond her control. MC E2.A6.1.3.3. Applicant's divorce in 1995 appears to have affected her financial situation, so I have applied that mitigating condition. Nevertheless, that divorce was over 10 years ago. She still has delinquent debts totaling approximately \$25,000 and her ability to make any meaningful payments on these debts is in question. Applicant does not appear to have a budget. She could only estimate her monthly bills and the amount she has remaining at the end of the month that could be put toward those bills. She is not enrolled in any credit counseling service, and her debts are not being resolved. Under the circumstances, I find against Applicant on all allegations, except that in ¶ 1.e, which she paid.

FORMAL FINDINGS

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

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: Against Applicant

Subparagraph 1.i: Against Applicant

Subparagraph 1.j: 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

Administrative Judge