

DATE: May 30, 2006

In Re:

SSN: -----

Applicant for Security Clearance

CR Case No. 05-03847

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant initiated a good faith effort to satisfy his past-due financial obligations. Clearance is granted.

STATEMENT OF THE CASE

On September 8, 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 16, 2005. The case was assigned to the undersigned on January 20, 2006. A Notice of Hearing was issued on April 21, 2006, and the hearing was held on May 10, 2006. Following the hearing, applicant submitted two sets of documents. The first set consisted of two pages of checking account records. These documents, and Department Counsel's letter indicating he has no objection to them, were marked as Exhibit U and admitted into evidence. The second set consisted of a fax cover sheet and a one page copy of a credit report. These documents, and Department Counsel's letter indicating he has no objection to them, were marked as Exhibit V and admitted into evidence. The transcript was received on May 26, 2006.

RULINGS ON PROCEDURE

At the hearing, the SOR was amended as follows:

On page 2, subparagraph d was changed to f; subparagraph e was changed to g; and subparagraph f was changed to h.

FINDINGS OF FACT

Applicant is a 41 year old employee of a defense contractor.

SOR Allegations 1a and 1b: These two judgments relate to the same debt. Applicant reached an agreement with this creditor and satisfied the debt (TR at 18-19; Exhibit A).

SOR Allegation 1c: Applicant satisfied this debt (TR at 19-21; Exhibit B).

SOR Allegation 1d: Applicant satisfied this debt (TR at 21-22; Exhibit C).

SOR Allegation 1e: Applicant reached an agreement with this creditor to settle the debt for \$2,700.00 and applicant recently made the required payment (TR at 22-27; Exhibits D, E, F and U).

SOR Allegation 1f: Applicant had been trying to settle this debt, but the creditor went out of business and applicant did not know who to pay. He decided to dispute the debt with a credit reporting agency, figuring that he would either find out who the new creditor was (in which case he would make arrangements to satisfy the debt) or he would have the debt deleted from his credit report. Exhibit V establishes that this debt was recently deleted from applicant's credit report.

SOR Allegation 1g: Applicant has not satisfied this \$41.00 utility debt because the creditor has no record of him having an account.

SOR Allegation 1h: Applicant has not satisfied this \$101.00 debt because he does not know what the debt is for (TR at 31).

Applicant fell behind on his debt payments primarily because he was paying child support for his oldest child, and was paying costs and legal fees totaling about \$5,000.00 trying to gain sole custody of two of his other children who were not being properly cared for by their mother. At the present time, applicant's child support obligations have all been met, and applicant has sole custody of his other two children (TR at 41-45).

Documentary evidence offered by applicant establishes that he has made timely payments on his recently acquired debt, and that he has a positive monthly cash flow (Exhibits G, H and T).

CONCLUSIONS

The evidence establishes that applicant fell behind on his payments to at least six creditors. This fact requires application of 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*) of the Financial Considerations guideline.

In view of applicant's payment of the vast majority of his past-due debt, and his sincere attempt to get to the bottom of the other three debts, he qualifies for Mitigating Condition E2.A6.1.3.6 (*the individual has initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

At the present time applicant is financially stable. The two financial burdens that led to his financial delinquencies have been resolved and will not recur. Specifically, all of his child support obligations have been met, and since his oldest child is no longer a minor, he has no further child support obligations. And, since he has gained custody of his other two children, he will not be incurring any more attorney fees and costs trying to gain custody. Given these facts, and the fact that applicant's current income is sufficient to meet his current expenses, I conclude that it is now clearly consistent with the national interest for applicant to have access to classified information.

FORMAL FINDINGS

PARAGRAPH 1: FOR THE APPLICANT

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for applicant.

Joseph Testan
Administrative Judge