



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)	
)	
SSN:)	ISCR Case No. 07-16518
)	
Applicant for Security Clearance)	

Appearances

For Government: John B. Glendon, Esquire, Department Counsel
For Applicant: *Pro se*

May 30, 2008

Decision

METZ, John Grattan, Jr., Administrative Judge:

On 12 March 2008, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F.¹ Applicant answered the SOR 27 March 2008, and requested a hearing. DOHA assigned the case to me 16 April 2008, and I convened a hearing 12 May 2008. DOHA received the transcript (Tr.) 20 May 2008.

¹
DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (RAG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Findings of Fact

Applicant denied the SOR allegations except for SOR 1.a., 1.b., and 1.g. He is a 26-year-old senior technician employed by a defense contractor since November 2004. He has not previously held a clearance.

The SOR alleges, and government exhibits confirm, 13 delinquent debts totaling over \$7,000.² Applicant was questioned about these debts during an interview with a government investigator in March 2007. The contents of that interview are unknown because Applicant either does not remember what he said to the investigator, or flatly denies any admissions attributed to him. After the interview, Applicant claims to have been in contact with some of the creditors, but he is unable to corroborate that he did so or that he resolved any of the debts. Following receipt of the SOR, Applicant hired a law firm specializing in credit issues, and is disputing all 13 debts (A.E. A, B). However, he has not yet received any answers to the law firm's inquiries of his creditors

In January 2007, Applicant was served with paternity papers seeking back child support for a child alleged to be his. Applicant asserted that this was the first he knew he was alleged to have fathered a child. He disputed paternity, but was ultimately found to have fathered the child. His 2008 state and federal tax refunds, in an amount approximating the debt alleged at SOR 1.f., were seized in February 2008 and applied to his account (A.E. C). However, his most recent earnings statement reflects that he is making bi-weekly payments for child support and arrears (A.E. F).

Although Applicant denies having financial difficulties—and thus offers no reasons that he might have such difficulties—he describes personal circumstances that might explain the confusing state of his credit reports: divorce from his first wife, multiple moves while in the military, maintaining a residence in the U.S. while he was deployed overseas. Nevertheless, the circumstances described do not match the level of disarray displayed by his credit reports.

Policies

The Revised Adjudicative Guidelines (RAG) list factors to be considered in evaluating an Applicant's suitability for access to classified information. Administrative Judges must assess both disqualifying and mitigating conditions under each issue fairly raised by the facts and circumstances presented. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in RAG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not determinative for or against Applicant. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of access to classified information. Considering the SOR allegations and

²At hearing, Department Counsel indicated that based on the evidence the government did not intend to go forward with the allegation at SOR 1.n. Accordingly, I consider that allegation withdrawn.

the evidence as a whole, the relevant, applicable, adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an Applicant's security clearance. The government must prove, by something less than a preponderance of the evidence, controverted facts alleged in the SOR. If it does so, it establishes a *prima facie* case against access to classified information. Applicant must then refute, extenuate, or mitigate the government's case. Because no one has a right to a security clearance, the Applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the government based on trust and confidence. Therefore, the government has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.³

Analysis

The government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant's credit reports establish his indebtedness. Applicant was aware of the alleged debts since at least March 2007, yet he took no effective action to address the debts before the SOR was issued.⁴ The only action taken by Applicant after the SOR was issued was to hire a law firm to dispute the debts. That effort may bear fruit, but not in time to be much help to Applicant in this case.

Applicant meets none of the mitigating factors for financial considerations. His financial difficulties are both recent and multiple.⁵ There is no evidence the debts were due to circumstances beyond his control and he has not acted responsibly in addressing his debts.⁶ There is no evidence that he has sought credit counseling or

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴

¶19.(a) inability or unwillingness to satisfy debts; (b) indebtedness caused by frivolous or irresponsible spending and the absence of any evidence of willingness or intent to pay the debt or establish a realistic plan to pay the debt; (c) a history of not meeting financial obligations; . . .

⁵

¶20 (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

⁶

¶20.(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

otherwise brought the problem under control.⁷ None of the alleged debts have been paid, much less in a timely, good-faith effort.⁸ Further, given his unwillingness to seek or use financial counseling, there is nothing in the record to suggest that Applicant will put his financial problems behind him. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraph a:	Against Applicant
Subparagraph b:	Against Applicant
Subparagraph c:	Against Applicant
Subparagraph d:	Against Applicant
Subparagraph e:	Against Applicant
Subparagraph f:	For Applicant
Subparagraph g:	Against Applicant
Subparagraph h:	Against Applicant
Subparagraph i:	Against Applicant
Subparagraph j:	Against Applicant
Subparagraph k:	Against Applicant
Subparagraph l:	Against Applicant
Subparagraph m:	Against Applicant
Subparagraph n:	Withdrawn

Conclusion

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. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge

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¶20.© the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

⁸¶20.(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.