



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



In the matter of:)
)
) ISCR Case No. 09-07043
SSN:)
)
Applicant for Security Clearance)

Appearances

For Government: James F. Duffy, Esquire, Department Counsel
For Applicant: *Pro se*

August 31, 2010

Decision

METZ, John Grattan, Jr., Administrative Judge:

On 26 April 2010 the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant listing security concerns under Guideline F, Financial Considerations.¹ Applicant timely answered and requested a decision without hearing. The record in this case closed 18 July 2010, the day Applicant’s response to the government’s File of Relevant Material (FORM) was due. Applicant provided no additional information. DOHA assigned the case to me 11 August 2010.

Findings of Fact

Applicant admitted the SOR financial allegations. He is a 28-year-old electrical engineer employed by a U.S. defense contractor since July 2007. He has not previously

¹DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DoD on 1 September 2006.

held a clearance. He married in October 2007, and has two small children. His wife does not currently work outside the home.

The SOR alleges, Applicant admits, and government exhibits substantiate, 21 delinquent debts totaling over \$32,000. His personal financial statement (PFS)(Item 7) shows \$209 positive monthly cash flow. He has taken no concrete action to resolve his debts.

Applicant's extended family has had financial difficulties since September 1999. His father's gambling, his parent's subsequent divorce, and his mother's bankruptcy all contributed to his entering adulthood already under extreme financial pressure. By 2002, Applicant had maxed out all his credit cards paying his college expenses. In 2002, he got credit counseling, developed a plan for paying off his credit cards, and claims—without documentation—to have made the required plan payments until 2006, when his mother and step-father lost their jobs. However, while he was making plan payments, he was also opening new credit cards. When his parents lost their jobs, Applicant became the sole support for them and his sister. However, this did not stop him from traveling half-way around the world in September 2006 to meet in-person a woman he had met on-line, or making a return trip in September 2007 for an engagement party.

Applicant's delinquent debts consist of 15 collection accounts and six charged-off accounts. He has had an automobile repossessed and ignored a court summons regarding the repossession, as he has ignored demand letters from his other creditors. He contacted an attorney about filing for bankruptcy, but took no action because he could not afford the fees. Applicant states a desire to pay his delinquent debts when he has the means. Currently, however, his family obligations consume all his income.

Policies

The adjudicative guidelines (AG) 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 situation presented. Each decision must also reflect a fair and impartial commonsense consideration of the factors listed in AG ¶ 2(a). The presence or absence of a disqualifying or mitigating condition is not conclusive 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 the evidence as a whole, the relevant 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 substantial evidence, controverted facts alleged in the SOR. If it does, it establishes a valid 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 has 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.²

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has an extensive history of financial difficulties, which are ongoing.³ The family Applicant grew up in was not financially stable, and that history followed him into adulthood. Applicant has used credit irresponsibly to support his extended family, and while his motivation may be laudable, his conduct has left him in an untenable financial position. The record contains no other evidence in extenuation, mitigation, or rehabilitation. Consequently, none of the mitigating factors for financial considerations apply. The record further lacks any information upon which to base a “whole-person” analysis. I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-u: Against Applicant

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

²See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

³¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;