



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXX) ISCR Case No. 12-10172
)
Applicant for Security Clearance)

Appearances

For Government: Rhett E. Petcher, Esquire, Department Counsel
David F. Hayes, Esquire, Department Counsel
For Applicant: *Pro Se*

08/29/2016

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant's clearance.

On 26 January 2015, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 18 August 2015, and I convened a hearing 30 September 2015. DOHA received the transcript (Tr.) 8 October 2015.

¹The record consists of the transcript (Tr.) and Government exhibits (GE) 1-4.

²DoD acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; 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.

Findings of Fact

Applicant admitted SOR allegations 1.a, 1.b, and 1.i. He denied the remaining allegations. He is a 27-year-old systems administrator employed as a defense contractor since May 2012. He has not previously held a clearance. Since leaving college full time in August 2007, Applicant has been employed in a series of low-paying jobs interspersed with three brief periods of unemployment, most recently July-August 2011. He has never married and has no children.

The SOR alleges, and Government exhibits (GE 2-4) establish, 13 delinquent debts totaling over \$10,000. Applicant admits three debts totaling \$6,000. He claimed, without corroboration, to have settled SOR debt 1.i. He reported SOR debt 1.a on his May 2012 clearance application (GE 1). He claimed then to be working on a lump-sum settlement, but the account remains unresolved.

Applicant traces his financial problems to his college days between August 2005 and December 2008, when he took advantage of several credit card offers targeted at college students. When he stopped attending college full time, the jobs he held did not provide enough income to remain current on his consumer debt.

Applicant asserts that he has bases to dispute most of the debts which he denied. However, he did not document those disputes in writing; nor did he formally dispute the accounts with the credit bureaus. He claimed, without corroboration, to have received a settlement offer on SOR debt 1.d, but had not taken advantage of the offer. He has not had any recent discussions with the creditors at SOR debts 1.a and 1.b about repayment plans or settlements.

Applicant has not had any credit or financial counseling. He provided no current budget. Applicant has not been in contact with any of his creditors recently. He provided no work or character references, and provided no evidence of community involvement.

Policies

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. 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, disputed facts alleged in the SOR. If it does, the

burden shifts to applicant to 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 required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding 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 has delinquent debt dating back several years that he has not addressed.⁴

The mitigating factors for financial considerations provide little help to Applicant. His financial difficulties are recent and not infrequent, and the stated cause cannot be considered unlikely to recur because much of the debt dates back to August 2007, when Applicant left college.⁵ Applicant's unemployment and underemployment between 2007 and May 2012 may be considered circumstances beyond his control, but even if they could be so considered, Applicant has not been responsible in dealing with his debts. He has had no contact with any of his creditors for several years.⁶ He provided no corroboration of any claimed payments or bases for disputing his debts. He has taken no action to address the debts that he admits are his.⁷

In addition, Applicant has received no credit or financial counseling. He has no budget. Consequently, it is clear that the problem is not being resolved.⁸ Moreover, Applicant has not even credibly stated his intent to resolve his delinquent debt and avoid financial problems in the future. Further, Applicant provided insufficient evidence to reasonably support a "whole person" analysis in favor of granting his clearance. I conclude Guideline F against Applicant.

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

⁴¶ 19 (a) inability or unwillingness to satisfy debts; (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;

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

⁸¶ 20 (c) 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;

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-m: Against Applicant

Conclusion

Under 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