



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



In the matter of:)
)
) ISCR Case No. 15-01020
)
Applicant for Security Clearance)

Appearances

For Government: Andrea M. Corrales, Esq., Department Counsel
For Applicant: *Pro se*

11/01/2016

Decision

CURRY, Marc E., Administrative Judge:

Applicant failed to mitigate the financial considerations security concern generated by his delinquent debts. Clearance is denied.

Statement of the Case

On September 18, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006. On October 15, 2015, Applicant answered the SOR, admitting all of the

allegations except those set forth in SOR subparagraphs 1.a, 1.e, 1.f, 1.o, and 1.p.¹ Applicant requested a decision on the written record rather than a hearing.

On November 30, 2015, Department Counsel prepared a File of Relevant Materials (FORM). Applicant received the FORM on January 19, 2016. He submitted no response. On August 11, 2016, the case was assigned to me.

Findings of Fact

Applicant is a 34-year-old man with two children, ages nine and seven. He has been married since 2005, but is currently separated from his wife. He is a high school graduate and he has earned some college credits. (Item 3 at 10) Applicant served honorably on active duty in the U.S. Navy from 2002 through 2007. (Item 3 at 19) After leaving active duty, Applicant joined the U.S. Navy Reserve in 2007. He quit the reserves in 2008 before fulfilling the agreed-upon time in his enlistment contract,² receiving a general discharge under honorable conditions. (Item 6 at 4)

Between 2010 and 2015, Applicant incurred \$11,926 of delinquent debt. Applicant attributes his financial problems to “financial hardship due to living on one income with a family of four while [his] wife was finishing her bachelor’s degree.”³ (Item 3 at 37) Applicant’s medical expenses were also unusually high because his wife, a cancer survivor, had extensive, expensive medical expenses including bills for the maintenance of a prosthetic hip, and his daughter was diagnosed with a major illness that required prolonged and frequent medical treatment. (Item 6 at 6)

Applicant has been maintaining his own finances since separating from his wife.⁴ He has satisfied the debt alleged in SOR subparagraphs 1.a, totalling \$1,687, and 1.e, totalling \$120. (Answer at 4, 5) Also, SOR subparagraph 1.k, a revolving account that was \$1,686 delinquent is now in good standing. (Answer at 6) Applicant is working to repay debts “as money becomes available.” (Item 2 at 1) His goal is to have all of his delinquent debt satisfied by the end of 2016. Applicant provided no evidence of any debt payments made after October 2015.

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the

¹Applicant neither admitted nor denied SOR subparagraph 1.p.

²Applicant left before the end of his contract because the position he wanted in the reserves was unavailable. (Item 6 at 3)

³Applicant’s spouse enrolled in college in 2009. (Item 6 at 6)

⁴Applicant’s and his wife’s separation date is unknown from the record.

complexities of human behavior, they are applied together with the factors listed in the adjudicative process. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.”

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by department counsel. . . .” The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

Analysis

Guideline F, Financial Considerations

Under this guideline, “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.” (AG ¶ 18) Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability or unwillingness to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

Applicant’s financial problems were caused, in part, to unusually high medical expenses incurred by both his wife, a cancer survivor, and his daughter who was diagnosed with a serious illness that required expensive treatment. Since 2015, Applicant has gradually been satisfying his debts, paying off SOR subparagraphs 1.a and 1.e, and bringing subparagraph 1.k into good standing. I resolve these in his favor. Conversely, there is no documentary evidence that Applicant has made any additional debt payments after October 2015. Under these circumstances, AG ¶ 20 (b) “the conditions that resulted in the financial problem were largely beyond the person’s control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation), and the individual acted responsibly under the circumstances,” and AG ¶ 20(d) “the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts,” are only partially applicable, and AG ¶ 20(c), “the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control,” is inapplicable.

Whole-Person Concept

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). They are as follows:

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Although circumstances beyond Applicant's control partially contributed to his financial problems, and he has made some progress in reducing his delinquencies, he provided insufficient documentary evidence of what progress, if any, that he has made toward the satisfaction of his delinquent debts between October 2015 and February 2016 when the record closed. Under these circumstances, Applicant has not carried the burden.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraphs 1.b-1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Subparagraphs 1.f-1.j:	Against Applicant
Subparagraphs 1.k:	For Applicant
Subparagraphs 1.l-1.u:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MARC E. CURRY
Administrative Judge