



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-02244
)
Applicant for Security Clearance)

Appearances

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

02/02/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 22 September 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 8 May 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 22 December 2016.

¹Consisting of the File of Relevant Material (FORM), Items 1-6.

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 financial allegations 1.a-1.c; he denied the remaining allegations. He is a 42-year-old aircraft engineer employed by a U.S. defense contractor since June 2014. He has been continuously employed as a mechanic since September 2003. He was unemployed briefly from August to October 2012, when he left active duty. Applicant served on active duty in the U.S. military from February 1995 to August 2012, and received an honorable discharge. He is the thrice married father of two children: an 11-year-old son and a nine-year-old daughter.

Applicant's clearance status is unclear. He held a clearance in the military, most recently renewed in June 2010; the military revoked his clearance for financial reasons in December 2011 (Item 3).

The SOR alleges, and Government exhibits (Items 3-6) substantiate, seven delinquent debts totaling nearly \$65,000. Applicant admits three debts totaling \$42,000. Applicant claims, and his February 2015 (Item 4) and September 2015 (Item 5) credit reports appear to confirm, that SOR debt 1.d and 1.g are the same debt, which Applicant paid in August 2014 (Answer). He claimed, without corroboration, to have paid SOR debt 1.e. He admits to owing the collection agent at SOR 1.f, but disputes the amount owed. He provided no documentation corroborating this claim.

Applicant reported some financial problems on his August 2014 clearance application (Item 3), disclosing SOR debts 1.a-1.c and 1.f. The record contains no indication of a subject interview with a Government investigator.

Applicant attributes his financial problems to his February 2009 divorce from his second wife, which resulted in alimony and child support payments that he could not afford, plus the costs of maintaining two homes when he was transferred to a new duty station in June 2010 and became a geographic bachelor.³ He provided no explanation why his third wife was unwilling or unable to move with him to the new duty station. In June 2010, Applicant was living in a home that he owned. That home was foreclosed upon, and when he left the military in August 2012, he returned to a home that he and his third wife rented.⁴ They ultimately divorced in November 2012.

Applicant has stated no plan for addressing his delinquent debts. He simply states that he has not had the means to address his debts. He provided no budget or financial statement. Applicant has not received any credit or financial counseling. He provided no work or character references, or any evidence of community involvement.

³However, Applicant's August 2014 clearance application reflects that he rented a home from June 2010 to October 2010, lived with friends, but paid rent from October 2010 to November 2011, and lived in military housing from November 2011 to June 2012. He provided no explanation why he was unable to obtain military housing until November 2011.

⁴It appears that Applicant went on terminal leave from the military in June 2012, and lived with his third wife until August 2012, when he returned to his home town and lived with his parents while he was unemployed.

Policies

The adjudicative guidelines (AG) list factors for evaluating 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 reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing 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, 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 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.⁵

Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing.⁶ Applicant provided no chronology to measure the onset of his financial problems. Nevertheless, despite steady employment since February 1995, except for a brief unemployment between August and October 2012, there is no evidence of any efforts by Applicant to resolve the SOR debts, except for SOR debt 1.d, which he paid in August 2014.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; and Applicant provided no evidence to show that the immediate causes of his problems have been resolved.⁷ His

⁵See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

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

brief unemployment and his two divorces (February 2009 and November 2012) can be considered circumstances beyond his control, but he cannot be considered responsible in addressing his debts, particularly where he has documented no contact with any of his creditors except for SOR debt 1.d.⁸

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁹ There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.¹⁰ Moreover, Applicant has mostly disregarded these financial obligations since his August 2014 clearance application. His documented inaction for over two years raises significant security concerns that Applicant has not begun to address. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-c:	Against Applicant
Subparagraph d:	For Applicant
Subparagraphs e-f:	Against Applicant
Subparagraph g:	For Applicant (duplicate)

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

⁸¶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;

⁹¶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;

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