



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-03555
)
Applicant for Security Clearance)

Appearances

For Government: Nicole A. Smith, Esquire, Department Counsel
For Applicant: *Pro se*

01/13/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 12 November 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 16 April 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 16 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 the SOR financial allegations. He is a 48-year-old principal software engineer employed by a U.S. defense contractor since August 2008. He has been continuously employed as a software engineer since February 1991. His clearance status is unclear. Applicant served on reserve duty in the U.S. military from August 1986 to April 1990, and received an honorable discharge. He is the never-married father of five children: one adult and one near-adult with two different women, and three minor children with his cohabitant.

The SOR alleges, Government exhibits (Items 3-6) substantiate, and Applicant admits eight delinquent debts totaling over \$37,000. Over \$35,000 of the debt is for past-due amounts on his first (SOR 1.c) and second (SOR 1.a) mortgages and a deficiency on a voluntary automobile repossession. The remaining balances are for a charged-off consumer account (SOR 1.d) and for four delinquent medical accounts (SOR 1.e-1.h). Applicant documented no contacts with his creditors, and provided no evidence of their current status, although his March 2015 credit report (Item 5) reflects that his mortgage (SOR 1.c) is now current, having been modified.

Applicant reported some financial problems on his May 2013 clearance application (Item 3). Of the SOR allegations, only his delinquent second mortgage and the deficiency on his voluntary automobile repossession were reported.³ However, during his June 2013 interview with a Government investigator (Item 4), he discussed the delinquent debts listed in his June 2013 credit report (Item 6), including all the SOR allegations except SOR 1.e and 1.h.⁴ Applicant told the investigator that he would follow-up on all the delinquent debts and resolve them.

Applicant attributes his financial problems generally to his cohabitant's unemployment and medical issues for one of his children, which he puts at an unspecified time beginning three years ago (Answer).⁵ However, he provided no chronology to demonstrate how these events affected his finances. He has not documented any contact with his creditors since completing his clearance application in May 2013 and discussing his personal situation with the Government investigator in June 2013. He has stated no plan for addressing his delinquent debts. He provided no budget or financial statement. Applicant has not received any credit counseling or debt

³The automobile was one he purchased for one of his daughters. She was in an accident and the automobile was a total loss. Applicant has not explained how, under these circumstances, he is not responsible for the deficiency balance.

⁴The June 2013 credit report was a consolidated report, with entries by the three main credit bureaus. The March 2015 credit report contained entries from only one of the bureaus. Whoever drafted the SOR included only the delinquent debts from the March 2015 credit report. I have not considered the unalleged delinquent debts from the June 2013 credit report on the merits of the case.

⁵His June 2013 subject interview records his cohabitant's unemployment (otherwise not dated), but makes no mention of his child's medical issue.

consolidation. He provided no work or character references, or any evidence of community involvement.

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.⁶

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.⁷ Applicant provided no chronology to measure the onset of his financial problems. Nevertheless, despite steady employment since February 1991, there is no evidence of any efforts by Applicant to resolve the SOR debts, except for his first mortgage, which he had modified.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; and Applicant provided no

⁶See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

evidence to show that the immediate causes of his problems have been resolved.⁸ The loss of his cohabitant's income and his child's illness could constitute circumstances beyond his control if adequately placed in a chronology, but without a more detailed chronology, he cannot demonstrate that he has been responsible in addressing his debts, particularly where he has documented no contact with any of his creditors except his first mortgage holder.⁹

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.¹⁰ There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, except for the first mortgage holder, and thus he cannot establish that he has made a good-faith effort to address his debts.¹¹ Moreover, Applicant has mostly disregarded these financial obligations since his subject interview in June 2013. His documented inaction for over three 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

Subparagraph c:

For Applicant

Subparagraphs a-b, d-h:

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

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

⁹¶ 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;

¹⁰¶ 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;

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