



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 15-04791
)
Applicant for Security Clearance)

Appearances

For Government: Gina L. Marine, Esquire, Department Counsel
For Applicant: *Pro se*

05/30/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 20 January 2016, 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 18 May 2016, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 4 April 2017.

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, except for SOR 1.e, of which he claimed to be unaware. He is a 30-year-old aircraft software tester employed by a U.S. defense contractor since May 2014. He spent two years in the United States (U.S.) military from January 2007 to January 2009, when he was honorably discharged for medical reasons. He was unemployed from January to June 2009, when he entered college. He attended college from July 2009 to April 2011, when he received his degree, and then served an unpaid internship from May 2011 to July 2012. He was employed full time as a photographic technician from August 2012 to April 2014. Applicant has never married and has no children. He has not previously held an industrial clearance (Item 3, 4).

The SOR alleges, and Government exhibits (Items 3-6) substantiate, nine delinquent debts totaling over \$21,000. Applicant admits eight debts totaling over \$20,000. The debts comprise four education loans the principal balances of which total \$21,290, on which Applicant is over 120-days past due in the amount of \$926 (SOR 1.a-1.d), two education loans totaling \$12,396, which are in collection (SOR 1.h-1.i), and three delinquent consumer credit accounts totaling \$8,120 (SOR 1.e-1.g).

Applicant disclosed his education debt and the consumer credit accounts at SOR 1.h-1.i on his December 2014 clearance application (Item 3), and acknowledged the debts—including the debt he now claims to be unaware of—during his March 2015 interview with a Government investigator (Item 4). He stated that he was in the process of arranging repayment plans with his creditors.

Applicant claimed, without corroboration, to have paid the delinquent amounts on his education loans and established repayment plans on those accounts (Answer). He has not made any repayment arrangements on his consumer credit accounts.

Applicant attributes his financial problems to his lack of income after his discharge from the military, and some unanticipated, and unspecified-as-to-time, expenses. However, except for the six months unemployment from January to July 2009 immediately after his discharge from the military, his lack of income has been due to his choice to return to college and serve an unpaid internship. He may have been underemployed while employed as a photographic technician, but he has documented no efforts to communicate with his creditors or the claimed repayment plans, much less payments on those plans.

Applicant provided no budget or financial statement. He has not received any credit or financial counseling. 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.³

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.⁴ Applicant's chronology shows that he was last involuntarily unemployed from January to June 2009, and while he may have been underemployed from August 2012 to April 2014, he has not documented any efforts to resolve the SOR debts since obtaining the job which requires this clearance in May 2014.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the circumstance which led to his financial situation may be unlikely to recur.⁵ Attending college and serving an

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 . . .

unpaid internship may have been worthwhile endeavors, but they were certainly not beyond his control. Moreover, even considering his underemployment as a circumstance beyond his control, he cannot be considered responsible in addressing his debts, particularly where he has documented no contact with any of his creditors.⁶

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.⁷ 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.⁸ Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-i: 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

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(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;

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