



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



In the matter of: )  
 )  
XXXXXXXXXXXXXXXXXXXXX ) ISCR Case No. 15-07884  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Andre M. Gregorian, Esquire, Department Counsel  
For Applicant: *Pro se*

07/25/2017

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**Decision**

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METZ, John Grattan, Jr., Administrative Judge:

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

On 10 June 2016, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations, Guideline G, Alcohol Consumption, and Guideline E, Personal Conduct.<sup>2</sup> 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 14 October 2016, when Applicant's response to the FORM was due. Applicant provided no additional information. DOHA assigned the case to me 1 July 2017.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-7.

<sup>2</sup>DoD 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. On 10 December 2016, the Director of National Intelligence (DNI) signed Security Executive Agent Directive 4, implementing new AG, effective with any decision issued on or after 8 June 2017.

## Findings of Fact

Applicant denied the SOR financial allegations, except for SOR 1.a-1.c, 1.i, and 1.k. He admitted the alcohol incidents, except that he claimed to have paid the fines for SOR 2.b and 2.c. He denied the SOR personal conduct allegations.

Applicant is a 28-year-old aircraft worker employed by a U.S. defense contractor since May 2013. He has been employed on the same contract since March 2012, except for two weeks July-August 2012, when the contract was being transferred between two companies. He held a series of part-time jobs between August 2006 and September 2008. He worked three full-time jobs at various times between October 2008 and October 2011,<sup>3</sup> when he moved to a new state. He was briefly unemployed from October to December 2011, then again from March to July 2012, before obtaining his current contracts.

Applicant has never married, has no children, and has not served in the military. He attended college from June 2006 to December 2007. He did not receive a degree.<sup>4</sup> He has not previously held a clearance.

The SOR alleges, and Items 2-5 establish, 13 delinquent debts totaling over \$27,000. Applicant admits five debts totaling nearly \$6,900. The debts comprise four delinquent medical debts totaling \$800 (SOR 1.aa-1.c and 1.k); five delinquent education loans totaling over \$23,000 as of his April 2016 credit report (Item 5); a \$6,000 automobile lease judgment (SOR 1.i); and two small personal debts (SOR 1.l-1.m). Item 2 shows that the amount alleged in SOR 1.j was resolved in Applicant's favor in a lawsuit brought by the creditor in March 2008. He claimed, without corroboration, to have paid SOR debt 1.m (Item 1).

Items 2-3 and 6-8 establish four alcohol-related incidents in July 2007, November 2007, April 2008, and July 2011 (SOR 2.a-2.d). Applicant acknowledged the four incidents, but later denied SOR 2.b-2.c because he claimed that he had paid the associated fines.

Applicant reported his alcohol incidents, his delinquent education loans, and the judgment on his February 2015 clearance application (Item 2). He discussed these matters, and additional financial issues, during an April 2015 interview with a Government investigator (Item 3). He claimed in his clearance application and during his interview that he was making payments on his education loans. He stated he would investigate the delinquent debts he discussed with the investigator. He would address the debts he acknowledged as his, and find out about the debts he did not recognize

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<sup>3</sup>Including working for his father's construction company on an "as-needed" basis.

<sup>4</sup>However, he has a trade school certification he obtained at the same time he graduated from high school in June 2006.

He acknowledged that he still consumes alcohol to the point of intoxication, but claims that he no longer drives while intoxicated.

Applicant attributes his delinquent debts to his part-time jobs and his brief unemployments between October 2011 and August 2012. However, he has not provided specifics to show how his finances were affected, or what efforts he made to communicate with his creditors.

Applicant provided no documentation for any of his claimed payments. He provided no budget or financial statement. He has not documented 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 guidelines are Guideline F (Financial Considerations), Guideline G (Alcohol Consumption), and Guideline E (Personal Conduct).

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.<sup>5</sup>

### **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

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

difficulties, which are ongoing.<sup>6</sup> He has not documented any of the claimed payments, whether for his education loans or for his vehicle fines.

Applicant's case is a failure of proof. He has not documented that his financial problems were largely due to circumstances beyond his control. The last of his part-time jobs ended in September 2008, and his periods of unemployment between October 2011 and August 2012 were brief. Moreover, Applicant provided no details about his finances during this time, and any steps he took to resolve his delinquent debts. Finally, he has not documented any contacts with his creditors since his April 2015 interview, or his claimed payments on his education loans.

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.<sup>7</sup> Applicant's financial problems have not been shown to be largely due to circumstances beyond his control, and he has not documented any action that can be considered responsibly dealing with his delinquent debts.<sup>8</sup>

Applicant submitted no evidence to show that he received credit or financial counseling, and he has not established that these debts are being resolved.<sup>9</sup> Having not documented any of his claimed payments, he cannot establish that he has made a good-faith effort to address those debts.<sup>10</sup> Accordingly, I conclude Guideline F against Applicant.

The Government established a case for disqualification under Guideline G, by demonstrating Applicant's four alcohol related incidents between July 2007 and July 2011, plus his continued drinking to the point of intoxication since.<sup>11</sup> Although he claims that he no longer drives after drinking, he has provided insufficient information to

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<sup>6</sup>¶19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; © a history of not meeting financial obligations;

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

<sup>8</sup>¶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;

<sup>9</sup>¶2(c) the individual has received or is receiving counseling for the problem . . . and there are clear indications that the problem is being resolved or is under control;

<sup>10</sup>¶20(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

<sup>11</sup>¶22(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

support a conclusion that his past alcohol issues do not continue to cause security concerns.

Applicant does not fully meet any of the mitigating conditions for alcohol consumption. Applicant does not meet MC 23(a) because while he has had no more convictions since July 2011, he has continued to drink to the point of intoxication. Moreover, he fails to meet MC 23(a) because while his alcohol abuse was not recent, it was frequent, and not particularly unusual in its circumstances. In addition, Applicant does not meet requirements for MC 23(b) because while he acknowledged his past problems with alcohol, he continues to drink to the point of intoxication.<sup>12</sup> He provided no documentation that would show responsible use of alcohol. MC 23(c) and MC 23(d) are inapplicable to the facts of this case.

Applicant has not abused alcohol since his July 2011 incident. However, I do not consider the mere passage of time to fully mitigate the security concerns, particularly where Applicant continues to drink to the point of intoxication since, the absence of any aftercare programs or support systems, and his continued alcohol consumption, I cannot conclude Applicant is unlikely to abuse alcohol in the future. Accordingly, I resolve Guideline G against Applicant.

The Government failed to establish a case for disqualification under Guideline E. Applicant's alcohol incidents involve no issue of falsification or false and misleading information, and the alcohol incidents are fully resolvable under the AG for Alcohol Consumption. Accordingly, I resolve Guideline E for Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-i, k-m:	Against Applicant
Subparagraph j:	For Applicant
Paragraph 2. Guideline G:	AGAINST APPLICANT
Subparagraphs a-d:	Against Applicant
Paragraph 3. Guideline E:	FOR APPLICANT
Subparagraph a:	For Applicant

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<sup>12</sup>¶23(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

### **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.

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JOHN GRATTAN METZ, JR  
Administrative Judge