



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



In the matter of:)
)
-----) ISCR Case No. 15-08358
)
Applicant for Security Clearance)

Appearances

For Government: Andrew Henderson, Esquire, Department Counsel
For Applicant: Michael A. Meyer, Esquire

December 9, 2016

Decision

ROSS, Wilford H., Administrative Judge:

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP), on April 8, 2015. (Government Exhibit 1.) On March 25, 2016, the Department of Defense issued a Statement of Reasons (SOR) detailing the security concerns under Guidelines F (Financial Considerations) and J (Criminal Conduct) concerning Applicant. 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) effective within the Department of Defense on September 1, 2006.

Applicant answered the SOR in writing on May 6, 2016 (Answer), and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on June 15, 2016. This case was assigned to me on June 27, 2016. The Defense Office of Hearings and Appeals (DOHA) issued notices of hearing on July 14, August 8, and August 9, 2016. I convened the hearing as scheduled on September 16, 2016. The Government offered Government Exhibits 1 through 6, which were admitted without objection. Applicant testified on his own behalf, called one additional witness, and

submitted Applicant Exhibits A through E, which were also admitted without objection. DOHA received the transcript of the hearing (Tr.) on September 26, 2016.

Based on a thorough review of the pleadings, exhibits and testimony, I proposed to the parties in writing that this case was appropriate for a summary disposition in Applicant's favor.¹ This was done by an email dated November 29, 2016. Department Counsel had 10 days to consider the matter, and provided written notice that he did not object on November 30, 2016. Applicant did not object within ten days of November 29, 2016.

Applicant is 30, and married. He had two unpaid medical debts totaling about \$10,000. Applicant has paid the debts and is current on his existing obligations. He also had one arrest and conviction for Driving Under the Influence of Alcohol in 2012. Applicant fulfilled the sentencing requirements of the conviction, and no longer drinks and drives. Based on the record evidence as a whole, I conclude that Department Counsel presented sufficient evidence to establish the facts alleged in the SOR under Guidelines F and J. I also conclude that Applicant presented sufficient evidence to explain, extenuate, or mitigate the facts admitted by Applicant or proven by Department Counsel. In particular, I conclude that the security concerns are resolved under the following mitigating conditions: AG ¶¶ 20(b), 20(c), 20(d), 32(a), and 32(d).

The concerns over Applicant's history of financial problems, and single incident of driving under the influence, do not create doubt about his current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole and considered if the favorable evidence outweighed the unfavorable evidence or *vice versa*. I also gave due consideration to the whole-person concept. Accordingly, I conclude that Applicant met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant him eligibility for access to classified information. This case is decided for Applicant.

Wilford H. Ross
Administrative Judge

¹Summary Disposition is appropriate in cases where the undisputed evidence justifies a favorable decision of the case, with no potential appellate issues. This decision is issued in accordance with instructions from the Director, DOHA, contained in an email dated November 12, 2016.