



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 16-01758
)
Applicant for Security Clearance)

Appearances

For Government: Alison P. O'Connell, Esquire, Department Counsel
For Applicant: *Pro se*

11/28/2017

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 31 October 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 6 April 2017, when Applicant's response to the FORM was due. Applicant provided no additional information. DOHA assigned the case to me 1 October 2017.

¹Consisting of the File of Relevant Material (FORM), Items 1-9.

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. 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 admitted the SOR financial allegations. He is a 41-year-old mechanic employed by a U.S. defense contractor since May 2014. Except for a brief period October-November 2010, he has been continuously employed since September 2001, when he enlisted in the United States military, from which he was honorably discharged in October 2010 in paygrade E-6. He was married from December 2007 to October 2012, and has a child born in July 2009. He seeks to retain the security clearance he has held since at least May 2011 (Item 5).

The SOR alleges, Government exhibits (Items 5-9) substantiate, and Applicant admits, 20 delinquent debts totaling about \$20,000. SOR debt 1.a appears to be the same as SOR debt 1.s, and SOR debt 1.q appears to be the same as SOR debt 1.t. Applicant's April 2015 credit report (Item 6) shows that SOR debt 1.p is now current. Applicant claimed, without corroboration, to have paid some debts, to be paying on other debts, to have submitted one debt to insurance, to have challenged one debt as fraudulent and disputing another, and committed to contacting one creditor. He intended to pay seven of the debts when he got his 2016 income tax refunds.

Applicant disclosed four of the SOR debts on his February 2015 clearance application (Item 5), stated that he was fully aware of his debt problems, and stated he would pay his debts when he received his 2016 income tax returns. He discussed the delinquent debts on his April 2015 clearance application (Item 7) during an October 2015 interview with a Government investigator (Item 9). Applicant's December 2010 credit report (Item 8) and his January and February 2013 subject interviews (Item 9) show that Applicant had financial problems during his last background investigation that were apparently resolved in his favor. However his credit reports (Items 6-7) and subject interviews reflect a history of bringing delinquent debts current only to have them replaced by new delinquent debts.

Applicant attributes his financial problems to the birth of his son in 2009, his separation from his wife in 2010-2011, his divorce in 2012, and being double-charged for child support from November 2014 to May 2015. However, he also acknowledges that they were caused by poor self-control, lack of judgment, and living beyond his means.

Applicant provided no current 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(d). 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 He has had financial problems since before he left the military in 2010, and although he weathered the problems during his last clearance review, he continues to resolve old delinquent debt only to replace it with new delinquent debt. Applicant has not documented any of the claimed payments, or claimed resolutions of the SOR debts.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple, and his financial situation cannot be considered unlikely to recur.⁵ Applicant's financial problems are not due largely to circumstances beyond his control, and he has not demonstrated that he has taken responsible measures to deal with his delinquent debts.⁶

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴¶19(a) inability to satisfy debts; (b) unwillingness to satisfy debts regardless of the ability to do so; (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 . . .

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;

Applicant submitted no evidence to show that he received credit or financial counseling, and he has not established that these debts are being resolved.⁷ He has not established that he has made a good-faith effort to address his debts.⁸ Accordingly, I resolve Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraphs a-o:	Against Applicant
Subparagraph p:	For Applicant
Subparagraphs q-r:	Against Applicant
Subparagraphs s-t:	For Applicant (duplicates).

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

⁷¶20(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;

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