



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



In the matter of:)
)
XXXXXXXXXXXXXXXXXXXXXXXXXXXX) ISCR Case No. 16-02556
)
Applicant for Security Clearance)

Appearances

For Government: Ray T. Blank, Jr., 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 14 November 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 8 April 2017, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 1 October 2017.

¹Consisting of the File of Relevant Material (FORM), Items 1-8 .

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, except for SOR 1.c. She is a 50-year-old senior technician employed by a U.S. defense contractor since March 2006. She seeks to retain the clearance she obtained in May 2006 (Item 5).

The SOR alleges, Government exhibits (Items 5-8) establish, and Applicant admits eight delinquent debts totaling nearly \$58,500. Over \$53,000 of the debt is for a delinquent first mortgage that she denies on the grounds that this was the marital home which she quitclaimed to her husband in October 2012, so he could refinance the home in his name only as part of their divorce settlement. However, Applicant provided no documentation that he did so, and she remains jointly obligated on the original mortgage.

Applicant did not report any of the SOR debts on her October 2015 clearance application (Item 4), but was confronted about them, based on her November 2015 credit report (Item 5), during her April 2016 interview with a Government investigator (Item 8). She claimed to have no knowledge of most of the debts, but committed to investigate them. However, she took no action to investigate the debts until after she received Government interrogatories in June 2016 (Item 8). On 26 June 2016, she retained the services of a credit-repair law firm, and on her 28 June 2016 response to the interrogatories, she reported that the law firm was investigating SOR debts 1.b and 1.d-1.h. Nevertheless, it does not appear that any of the debts were resolved.

After Applicant received her November 2016 SOR (Item 1), she claimed, without corroboration, that she had contacted several of her creditors who stated that they could not locate the accounts. She provided documentation that she had engaged the services of a credit counseling firm which proposed a repayment plan of \$50 monthly to satisfy SOR debts 1.a-1.b, with payments to begin in January 2017 (Answer). She also documented a December 2016 repayment plan to pay \$50 monthly to the creditor at SOR debt 1.g, beginning in December 2016. However, she did not document any payments in furtherance of either plan.

Applicant attributed her financial problems to her February 2011 divorce. She provided no budget or financial statement. She has not documented any financial or credit counseling. She 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 did not mitigate the security concerns. Applicant has an extensive history of financial difficulties that remain unresolved, and for which she did not provide any documentation of claimed creditor contacts, or provide proof of payments made pursuant to the payment arrangements she did make.⁴

Applicant meets none of the mitigating conditions for financial considerations. Her financial problems are recent, frequent and ongoing.⁵ Arguably, her February 2011 divorce was a circumstance beyond her control, but that was over six years ago, and she has a history of inaction since then.⁶ Although she told a Government investigator that she would investigate her debts in April 2016, she took no action until she received Government interrogatories in June 2016, and did not follow up on that action. She did not resume her efforts to resolve her debts until after she received the SOR, and did not document any follow up on those efforts.

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 has had no credit or financial counseling, and there is no evidence any of the debts are being resolved.⁷ Her lack of effort does not constitute a good-faith effort to address her debts.⁸ In addition, Applicant has not demonstrated a track record of living within her means. Furthermore, Applicant provided no “whole-person” evidence to mitigate the security concerns raised by her inaction on the debts. Accordingly, I conclude Guideline F against Applicant.

Formal Findings

Paragraph 1. Guideline F: AGAINST APPLICANT

Subparagraphs a-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

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.