



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
 )  
----- ) ISCR Case No. 17-01529  
 )  
Applicant for Security Clearance )

**Appearances**

For Government: Adrienne Driskill, Esq., Department Counsel  
For Applicant: *Pro se*

04/27/2018

**Decision**

LEONARD, Michael H., Administrative Judge:

Applicant completed and submitted a Questionnaire for National Security Positions (SF 86 format) on April 26, 2016. This document is commonly known as a security clearance application. Thereafter, on June 7, 2017, after reviewing the application and the information gathered during a background investigation, the Department of Defense Consolidated Adjudications Facility, Fort Meade, Maryland, sent Applicant a statement of reasons (SOR), explaining it was unable to find that it was clearly consistent with the national interest to grant him eligibility for access to classified information.<sup>1</sup> The SOR is similar to a complaint. It detailed the factual reasons for the action under the security guidelines known as Guideline B for foreign influence and Guideline F for financial considerations. Applicant timely answered the SOR; his answer was mixed; and he requested a hearing.

<sup>1</sup> This case is adjudicated under Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective June 8, 2017.

The case was assigned to me on December 13, 2017. At the April 12, 2018 hearing, Department Counsel withdrew the Guideline B foreign influence allegations involving Applicant's half-brother and half-sister, both of whom are citizens of and residents in Thailand. The transcript of the hearing was received on April 19, 2018. Thereafter, I proposed to the parties that the case was appropriate for a summary disposition in Applicant's favor.<sup>2</sup> Department Counsel had ten days to object to a summary disposition, and on April 26, 2018, Department Counsel stated they had no objection.

Under Guideline F, the SOR concerns two matters, a mortgage foreclosure from several years ago and, more recently, past-due child support payments. The evidence shows that in 2009, Applicant, who was then married to his first wife, was laid off from a longtime job he had from June 1997 to September 2009. He was then unemployed through the balance of 2009. The resulting financial hardship led to Applicant defaulting on the mortgage loan and the subsequent foreclosure.<sup>3</sup> This event occurred during the midst of the national downturn in the residential real estate market.

Applicant divorced in 2013. The past-due child-support payments occurred when he lost a job in September 2015 and was unemployed through April 2016, a period of about nine months. He married for a second time in May 2016. He resumed making child-support payments upon his re-employment. He presented reliable documentation from the state's child-support services showing that his child-support account is in good standing with an arrears balance of \$0.00. His current financial situation appears to be stable based on very good credit scores as well as an April 2018 credit report showing no public records, no repossession accounts, no charge-off accounts, no foreclosure accounts, no bankruptcies, and no collection accounts.

In light of the record evidence as a whole, I conclude that Applicant presented sufficient evidence to explain, extenuate, or mitigate the facts admitted by him or proven by Department Counsel. I also conclude that the security concerns are resolved under the following mitigating conditions: AG ¶¶ 20(a), (b), and (d). I further conclude that he 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.

---

<sup>2</sup> A summary disposition is simply a procedural device that allows for a speedy, more streamlined decision when the undisputed evidence justifies a favorable clearance decision for an applicant and there are no foreseeable appellate issues.

<sup>3</sup> Although not binding or conclusive in this proceeding, it is nevertheless noted that the foreclosure occurred in a state that has an antideficiency statute that generally does not allow a mortgage lender to sue a borrower after the property has been sold at foreclosure. See Arizona Revised Statutes 33-814.G and 33-729.A. Assuming the mortgage lender issued a Form 1099-C to cancel any debt in existence after the sale of the property, neither Applicant nor his then spouse had a tax liability due to the provisions of *The Mortgage Forgiveness Debt Relief Act of 2007*. Congress enacted this federal law in 2007 to give relief to taxpayers who had debt forgiveness as a result of a foreclosure or as a result of a short sale. The Act was extended several times and remained in effect through December 31, 2013.

For all the reasons discussed above, this case is decided for Applicant.

Michael H. Leonard  
Administrative Judge