



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



In the matter of:)
)
-----) ISCR Case No. 17-02365
)
Applicant for Security Clearance)

Appearances

For Government: Nicole A. Smith, Esquire, Department Counsel
For Applicant: *Pro se*

03/23/2018

Decision

MARSHALL, Jr., Arthur E., Administrative Judge:

Statement of the Case

On August 24, 2017, the Department of Defense (DOD) Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline F (Financial Considerations).¹ In a response dated September 13, 2017, she admitted all allegations raised and requested a determination based on the written record. The Government issued a File of Relevant Material (FORM), undated, with five attachments (“Items”). The case was assigned to me on February 27, 2018. Based on my review of the record, I find Applicant failed to mitigate financial considerations security concerns.

Findings of Fact

Applicant is a 35-year-old female who has provided end-user support for the same entity since September 2016. Before that, she was employed in various capacities, except for two periods of unemployment, from July 2013 to December 2013 and from July 2016 to September 2016. Applicant has earned a high school diploma and attended technical

¹ The action was taken 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 or after June 8, 2017.

school. Never married, she has two young children, ages eight and four. Applicant disclosed some of her financial issues in a January 2017 security clearance application (SCA) and in a subsequent interview.

At issue in the SOR are 21 allegations related to different delinquent debts. In total, they amount to about \$23,680. Applicant admits all allegations. Of the scant information offered, she noted that she accumulated debt during her pregnancies from which she could not recover, and she wrote that her son has had medical problems which required her to take time off from work.

Applicant wrote that she is disputing the charged-off account noted at SOR 1.a (\$7,061), citing to allegedly irregular practices related to the underlying vehicular repossession. Regarding her position on that issue, she provided a complaint number with an entity that is not fully identified, but she failed to provide documentary evidence substantiating her assertion. Regarding the delinquent debt set forth under SOR 1.c (\$4,111), Appellant wrote that the time off from work she had to take in order to care for her ill son led to the eviction underlying this collection effort. She intends to work with this creditor. She also wrote that she “tried getting SSI to help with bills and when [she has] to take off,” but to no avail. (SOR Response)

In her SOR Response, Applicant conveyed that her son’s health has improved. She noted that although she has been a single mother, she now has “another income in the household to assist with bills and [she] will be able to catch up [in about 18 months].” (FORM Response) She did not elaborate on this comment. No documentation was offered to reflect that her financial situation has stabilized or improved. She did comment that she hoped to receive a raise in salary in the near future. Applicant did not respond to the FORM with additional information. There is no evidence of her having received financial counseling.

Policies

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to sensitive or classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of a number of variables known as the “whole-person concept.” The administrative judge must consider all available information in making a decision.

The protection of the national security is the paramount consideration. Any doubt concerning personnel being considered for national security eligibility will be resolved in

favor of the national security. Under the Directive, the Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and has the ultimate burden of persuasion to obtain a favorable security decision.

A person seeking access to sensitive or classified information enters into a fiduciary relationship with the Government based on trust and confidence. This relationship transcends normal duty hours. Decisions include consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard such information. Such decisions shall be in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.

Analysis

Guideline F, Financial Considerations

Under Guideline F, AG ¶ 18 sets forth that the security concern under this guideline is that failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information.

Here, Applicant admitted responsibility for the 21 debts cited in the SOR, although she disputes one account at issue. Her delinquent debts amount to about \$23,680. This is sufficient to invoke financial considerations disqualifying conditions:

AG ¶ 19(a): inability to satisfy debts;

AG ¶ 19(b): unwillingness to satisfy debts regardless of the ability to do so;
and

AG ¶ 19(c): a history of not meeting financial obligations.

Four conditions could mitigate the finance related security concerns posed here:

AG ¶ 20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

AG ¶ 20(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

AG ¶ 20(c) the person has received or is receiving counseling for the problem from a legitimate and credible source, such as a non-profit counseling service, and there are clear indications that the problem is being resolved or is under control;

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

AG ¶ 20(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provide evidence of actions to resolve the issue.

The delinquent debts at issue are multiple in number and, to date, remain unaddressed. While the conditions under which delinquent debt was acquired is not unique, the facts conveyed – periods of unemployment, loss of wages due to family health issues – have the potential to raise AG ¶ 20(b). That section, however, also requires a showing that the individual acted responsibly under the circumstances. Due to the brevity of Applicant’s commentary on her debts, any action she may have taken to contain her debt is unknown. Therefore, that section does not apply in whole. In addition, lack of documentary evidence establishing Applicant’s basis for disputing the debt related to her eviction, or evidence showing her efforts to resolve the matter, obviate application of AG ¶ 20(b). Under these facts, none of the other potential mitigating conditions apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of the applicant’s conduct and all relevant circumstances. The administrative judge should consider the adjudicative process factors listed in the AG. Under AG ¶ 2(a), the need to utilize a “whole-person” evaluation is set forth. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I incorporated my comments under the guideline at issue in my whole-person analysis.

Applicant is a 35-year-old, single mother of two young children. She has earned a high school diploma and attended technical school. Since September 2016, she has been employed in end-user support. Before that, she was employed in various capacities, except for during two periods of unemployment, from July 2013 to December 2013 and from July 2016 to September 2016. Her periods of unemployment, time off from work to care for her son, and her son’s health are cited as the cause for the 21 delinquent debts at issue. Those debts amount to approximately \$23,680.

In these matters, an applicant has the burden of mitigating adverse information. While Applicant provided factors that tend to mitigate her acquisition of debt, she provided no documentation reflecting any efforts to formally dispute, satisfy, or otherwise address the delinquent debts thus acquired. Lacking documentary proof of such efforts, Applicant

