



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 17-03280

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 March 6, 2016. This document is commonly known as a security clearance application. Thereafter, on October 20, 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.¹ The SOR is similar to a complaint. It detailed the factual reasons for the action under the security guideline known as Guideline F for financial considerations. Applicant timely answered the SOR; his answer was mixed; and he requested a hearing.

¹ 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 January 10, 2018. The hearing was held as scheduled on April 10, 2018. The transcript of the hearing was received on April 19, 2018. After the hearing was completed, I proposed to the parties that the case was appropriate for a summary disposition in Applicant's favor.² Department Counsel had ten days to object to a summary disposition, and on April 26, 2018, Department Counsel stated they had no objection.

The evidence shows that Applicant's foreclosure in 2011, approximately seven years ago, was brought about by financial hardship that was largely beyond his control. He had a job layoff in 2008 followed by a three-month period of unemployment. He then accepted a job in a neighboring state, but he became unable to work in about October 2010 due to carpal tunnel syndrome. He returned to his home state and was able in time to qualify for workers' compensation. He did not return to full-time work until about March 2012.

Applicant presented reliable documentation (Forms 1099-C and an account statement from the mortgage lender) showing the foreclosure was resolved in 2011, and the account balance for the mortgage loan is \$0.00.³ Likewise, an April 2016 credit report shows that the foreclosure was redeemed and that the creditor grantor reclaimed collateral to settle the default. In addition, he presented reliable documentation showing that he paid two minor medical collection accounts for \$93 and \$230. And he presented reliable documentation showing that he does not owe a third medical collection account for \$2,141. His current financial situation appears to be stable as reflected in a January 2018 credit report that shows no public records, no repossessions, no charge-off accounts, no foreclosure accounts, no bankruptcies, no collection accounts, and no past-due 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), (d), and (e). 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.

² 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.

³ 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. In addition, the Forms 1099-C show that the mortgage lender cancelled about \$42,000 in debt, but neither Applicant nor his 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