



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



In the matter of:

ISCR Case No. 18-00157

Applicant for Security Clearance

Appearances

For Government: Andrew Henderson, Esquire, Department Counsel

For Applicant: *Pro se*

July 25, 2018

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On January 20, 2016, Applicant submitted a security clearance application (SF-86). (Government Exhibit 1.) On January 26, 2018, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations. (Item 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*, effective within the DoD after June 8, 2017.

Applicant answered the SOR in writing on March 1, 2018, and requested a hearing before an Administrative Judge. DOHA received the request on April 24, 2018, and the case was assigned to the undersigned Administrative Judge on April 24, 2018. The notice of hearing was issued on May 2, 2018, scheduling the hearing for June 12, 2018. The hearing was convened as scheduled. At the hearing the Government

presented five exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. Applicant presented six exhibits, referred to as Applicant's Exhibits A through F, which were admitted without objection. He also testified on his own behalf. DOHA received the transcript of the hearing (TR) on June 20, 2018. Based upon a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

Findings of Fact

Applicant is 29 years old and is unmarried. He has a Bachelor's degree in Electronic Engineering and Technology. He is employed with a defense contractor as a Desktop Support Technician in IT Technology. He is seeking to obtain a security clearance in connection with his employment.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

The SOR identified nine delinquent student loan debts totaling approximately \$89,000. Applicant admits all of the debts set forth under this guideline. Credit reports of Applicant dated February 9, 2017; December 8, 2017; and April 20, 2018, reflect that each of the debts remain outstanding. (Government Exhibits 3, 4 and 5.) Applicant has been working for his current employer since February 2016. He applied for a security clearance shortly thereafter. His interim clearance was denied and Applicant was removed from the position.

Applicant explained that he comes from a dysfunctional home, with a history of drug abuse and domestic violence from his step-father towards his mother. Growing up he was protected by his mother, for the most part. His sister was taken away by the state, and eventually his aunt had custody of her. Applicant states that his father is an illegal immigrant. Applicant stated that after high school, at the age of 18, he started working to support himself. He shared his income with his mother, providing her with money for her rent, food, and to pay for some of the household bills. He also paid for his parents' cell phones and full auto coverage. After high school, the military was not an option to him as no branch would take him due to the fact that he is completely blind in one eye. College was his only option, and so he obtained a lot of debt from student loans in order to accomplish this goal. He now has the opportunity to serve his country by providing a valuable service to a defense contractor. In his position, he was granted a NIPR account with Admin Privileges and was given an opportunity to be the Assistant Customer Technical Representative at a military base. The job gave him a sense of pride for being an American and a sense of duty for serving our country.

Applicant states that he does not live a lifestyle that he cannot afford. He has moved in with friends and coworkers and they share living expenses. He states that he has learned how to budget properly. He has cosigned for the car he drives now. When he began working for his current employer, he had almost maxed out his credit cards; but at this point, he is making some progress, although small toward resolving his debts. He plans to pay off as much of his credit card debt as possible, and then focus on paying his student loans. (Applicant's Exhibit F.) The following delinquent student loans are outstanding.

1.a. A delinquent student loan account owed to the Department of Education for an account placed for collection in the approximate amount of \$40,892 remains owing.

1.b. A delinquent student loan account owed to the Department of Education for an account placed for collection in the approximate amount of \$16,058 remains owing.

1.c. A delinquent student loan account owed to the NTLSTDNTLN for an account placed for collection in the approximate amount of \$8,455 remains owing.

1.d. A delinquent student loan account owed to the NTLSTDNRLN for an account placed for collection in the approximate amount of \$8,128 remains owing.

1.e. A delinquent student loan account owed to the NTLSTDNTLN for an account placed for collection in the approximate amount of \$6,780 remains owing.

1.f. A delinquent student loan account owed to the NTLSTDNTLN for an account placed for collection in the approximate amount of \$3,955 remains owing.

1.g. A delinquent student loan account owed to the NTLSTDNTLN for an account placed for collection in the approximate amount of \$3,955 and remains owing.

1.h. A delinquent student loan account owed to the NTLSTDNTLN for an account placed for collection in the approximate amount of \$1,318 remains owing.

1.i. A delinquent debt owed to the city for an account was placed for collection in the approximate amount of \$89 remains owing.

Policies

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in

conjunction with the factors listed in AG ¶ 2 describing 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, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F - Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure 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. Financial distress can also be

caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Three are potentially applicable in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debt regardless of the ability to do so; and
- (c) a history of not meeting financial obligations.

Applicant has at least nine delinquent student loans totaling approximately \$89,000. His actions demonstrate both a history of not addressing his debt and an inability to do so. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating condition under Financial Considerations is potentially applicable under 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, or a death, divorce, or separation), and the individual acted responsibly under the circumstances.

It is recognized that Applicant's history of financial problems, some of which occurred through no fault of his own, but were simply part of his difficult childhood, contributed to his current financial situation. Applicant testified that he has plans to pay his student loan debts, but is not able to do so at this time. There is no pattern of systematic payments to show a pattern of financial responsibility. There is insufficient evidence here to show that he has acted responsibly under the circumstances. His inaction casts doubt on his current reliability, trustworthiness, or good judgment.

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 nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable

participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. I conclude Applicant has not mitigated the Financial Considerations security concern.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a.:	Against Applicant
Subparagraphs 1.b.:	Against Applicant
Subparagraphs 1.c.:	Against Applicant
Subparagraphs 1.d.:	Against Applicant
Subparagraphs 1.e.:	Against Applicant
Subparagraphs 1.f.:	Against Applicant
Subparagraphs 1.g.:	Against Applicant
Subparagraphs 1.h.:	Against Applicant
Subparagraphs 1.i.:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge