



ISCR Case No. 18-00310

# Applicant for Security Clearance

## Appearances

For Government: Aubrey De Angelis, Department Counsel  
For Applicant: *Pro se*

September 7, 2018

## Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

## Statement of Case

On December 7, 2016, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On March 28, 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, effective within the DoD after June 8, 2017.

Applicant answered the SOR on May 23, 2018, and requested a hearing before an administrative judge. The case was assigned to me on July 25, 2018. The Defense Office of Hearings and Appeals issued a notice of hearing on July 30, 2018, and the hearing was convened as scheduled on August 14, 2018. The Government offered five

exhibits, referred to as Government Exhibits 1 through 5, which were admitted without objection. The Applicant offered three exhibits, referred to as Applicant's Exhibits A through C, which were admitted without objection. Applicant testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on August 22, 2018.

### **Findings of Fact**

Applicant is 51 years old and married with one step daughter and one son. He has a bachelor's degree in Technical Management and is working on his masters' degree. He is employed by a defense contractor is a Senior Technician. 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 eighteen delinquent debts totaling in excess of approximately \$50,000. Applicant admitted allegations 1.c., 1.d., 1.f., 1.g., 1.h., 1.i., 1.j., 1.k., 1.l., 1.m., 1.n., and 1.o., set forth in the SOR. He denied allegations 1.a., 1.b., and 1.e. (Applicant's Answer to SOR.) Applicant failed to address allegations 1.p., 1.q., 1.r., and 1.s. His silence is viewed as a denial of the allegations. Credit reports of the Applicant dated March 28, 2017; January 9, 2018; and July 20, 2018, confirm the debts listed in the SOR. (Government Exhibits 3, 4 and 5.)

From 1986 to 1993 Applicant served on active duty in the United States Air Force. Then from 1993 through 2013 he served in the Air National Guard. He was honorably discharged from both services. Applicant was married to his first wife from 1988 to 1992. He then married his present wife.

Applicant attributes a number of life events to his financial problems. He explained that when he retired from the military in 2013, he lost two-thirds of the pay that he normally received. He no longer received housing allowance or food allowance, and then only received 56% of his base pay. For about eight months, Applicant was waiting for his VA disability and could barely keep up with the house payment. Applicant worked part-time for a company from 2011 through 2015, and he would be a substitute for those on vacation. He was hired full time in January or February 2015. (Tr. p. 26.)

Applicant also explained that in 2014 his wife got a DUI and was in a car accident that totaled the car. (Tr. p. 26.) He had to incur the cost of purchasing another car that he had not expected. In 2016, his wife got another DUI. Applicant had to pay for her attorney fees and other related court fines and expenses. (Tr. p. 26.)

Applicant states that his parents are his dependents. He has also been helping his son, an E-1 in the Army, with his car payment, as he did not want his son to go through the financial difficulties he did. (Tr. p. 27.)

In January 2017, Applicant learned that his impound account on his house payment was miscalculated and had to be raised \$600 monthly. (Tr. p. 27.) Applicant received a loan modification in April 2018 and now the payment is only a couple hundred dollars more and now his retirement check covers the payment as it did before. (Tr. p. 28.)

The following delinquent debts were listed in the SOR became owing:

1.a. Applicant was indebted to a creditor for a mortgage account that was past due in the approximate amount of \$18,036, with a total balance of \$236,660. Applicant borrowed money from his 401K to make three months of payments in order to get a loan modification. His monthly payments are now \$2,023 and he has brought the account current. (Applicant's Exhibit C.)

1.b. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$759, with a total balance of \$8,504. This is Applicant's wife vehicle payment. He pays \$258 monthly, and has brought the account current. (Tr. pp. 30-31.)

1.c. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$8,411. This is Applicant's daughter's vehicle that Applicant co-signed for in 2008. She lost her job, could not pay for it and Applicant had it voluntarily repossessed. (Tr. p. 33.) The debt remains owing. (Tr. p. 34.)

1.d. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$1,304, with a total balance of \$6,698. This is a loan for landscaping he took out in 2016 to reduce his water bill. The debt remains owing. (Trp. 35.)

1.e. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$381, with a total balance of \$4,028. Applicant contends that this is his parents' account, as he is only an authorized user. (Applicant's Exhibit B and Government Exhibit 5.)

1.f. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$902, with a total balance of \$902. This is a payday loan opened in May 2017. The debt remains owing. (Tr. p. 37.)

1.g. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$249, with a balance of \$881. The debt remains owing. (Tr. p. 38.)

1.h. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$75, with a total balance of \$833. This was a credit card. The debt remains owing. (Tr. p. 38.)

1.i. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$754. This was a credit card. The debt remains owing. (Tr. p. 40.)

1.j. Applicant was indebted to a creditor for an account that was past due in the approximate amount of \$60, with a total balance of \$634. Applicant states that the debt is now current. (Tr. p. 38.)

1.k. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$615. The debt remains owing. (Applicant's Answer to SOR)

1.l. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$463. This was a credit card. The debt remains owing. (Tr. p. 40.)

1.m. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$360. This was a credit card. The debt remains owing. (Tr. pp. 40 - 41.)

1.n. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$358. Applicant contacted the creditor and plans to pay it off at the end of the month. (Tr. p. 42.)

1.o. Applicant was indebted to a creditor for an account that was charged off in the approximate amount of \$127.

1.p. Applicant was indebted to a creditor for an account that was placed for collection in the approximate amount of \$277. This is a credit card. The debt remains owing. (Tr. p. 43.)

1.q. Applicant was indebted to a creditor for a judgment filed against him in 2013 in the approximate amount of \$1,505. The debt remains owing. (Tr. p. 44.)

1.r. Applicant was indebted to a creditor for a judgment filed against him in 2014 in the approximate amount of \$1,030. This is for HOA dues. Applicant states that he paid the debt in March 2018 and it is now current. (Applicant's Exhibit A.)

1.s. Applicant filed for Chapter 13 Bankruptcy in February 2004. The bankruptcy was discharged in November 2005. (Tr. p. 24.)

Applicant earns about \$110,000 annually and his wife brings in about \$20,000. He has not adjusted his lifestyle to his income and so it continues to be financially difficult. He admits that he lives paycheck to paycheck, but he intends to pay all of his

delinquent debts. He has about 27 cents in his savings account. He does not have discretionary funds available to pay the rest of his delinquent debt at this time. Now that his house payment and HOA payments are caught up, and he is able to make his both car payments of \$258 and \$496 monthly, he now believes that he can focus on the collection accounts in the SOR. (Tr. p. 51.)

## **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 or unwillingness 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 remains excessively indebted and cannot afford to pay his bills. It is noted that in the past, Applicant had some difficulties adjusting from military income to civilian income, and was forced to wait eight or nine months before receiving his disability benefits and ultimately a full time job. However, he has been working full time since 2015. Instead of paying his bills, he continues to provide financial support to his relatives, namely his parents, his son, his daughter and wife, when he is unable to pay his own debts. That is his choice. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating condition under the 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.

Recently, Applicant has brought his mortgage current with a loan modification and has caught up with his HOA payments. In regard to his other delinquent debts, most of them remain owing. He does not appear to have the financial resources available to pay them. Based upon these facts, there is no evidence that he has acted responsibly under the circumstances. There remain questions about 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.:	For Applicant
Subparagraphs 1.b.:	For 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
Subparagraphs 1.j.:	Against Applicant
Subparagraphs 1.k.:	Against Applicant
Subparagraphs 1.l.:	Against Applicant
Subparagraphs 1.m.:	Against Applicant
Subparagraphs 1.n.:	Against Applicant
Subparagraphs 1.o.:	Against Applicant
Subparagraphs 1.p.:	Against Applicant
Subparagraphs 1.q.:	Against Applicant
Subparagraphs 1.r.:	Against Applicant
Subparagraphs 1.s.:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson  
Administrative Judge