



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



Appearances

For Government: Erin Thompson, Esq., Department Counsel
For Applicant: *Pro se*

03/21/2025

Decision

HYAMS, Ross D., Administrative Judge:

Applicant did not provide sufficient information to mitigate the financial considerations security concerns. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on August 20, 2021. On September 12, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F (financial considerations). Applicant answered the SOR on October 11, 2023, and requested a hearing before an administrative judge. The case was assigned to me on October 21, 2024.

The hearing convened on January 30, 2025. Department Counsel submitted Government Exhibits (GE) 1-7. Applicant objected to GE 5 and 6, because they were records from old bankruptcies. Her objection was overruled, and GE 1-7 were admitted in evidence. Applicant submitted Applicant Exhibits (AE) A-C, which were admitted in evidence without objection. After the hearing, I held the record open for three weeks, so that she could submit additional documentation. She timely submitted AE D-O which were admitted in evidence without objection.

Findings of Fact

In her answer, Applicant denied SOR ¶ 1.d and admitted the rest of the SOR allegations. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 45 years old. She graduated high school in 1997 and earned an associate degree in 2004. She married in 2022, but she and her husband are currently separated. She has two minor stepchildren and has an active role in their lives. She served in the Army National Guard from 1997-2003 and was honorably discharged. She has worked for a government contractor, as a technician, since 2015. She was previously employed by the government from 2010-2015 as a dispatcher. (Tr. 19-24; GE 1, 7)

After a long illness, Applicant's father passed away in 2020. Her father was her mother's only source of income. Her mother had a small insurance policy to assist her for about six months but was not able to access her survivor benefits until 2023. Applicant wanted to assist her mother with \$500 monthly, to ease her mother's financial burden for about two years, until she could claim her survivor benefits. She had previously assisted her with financial contribution after an injury. Applicant's income and monthly expenses did not allow enough extra income to provide assistance to her mother. Applicant thought if she filed a Chapter 13 Bankruptcy, it would reduce her monthly expenses so she could aid her mother. She now realizes this was a bad plan and ultimately a mistake, but no one, including her attorney, advised her against doing this. (Tr. 25-67; GE 7)

Applicant had two earlier experiences filing bankruptcy. She filed a Chapter 13 Bankruptcy in 2005 because she was financially overwhelmed after being out of work for a few months. She made the payments on her bankruptcy plan and the case was successfully discharged in May 2009. In 2011, she had purchased a used car that never worked properly. She had returned the car, but the lender maintained the debt. She filed a Chapter 13 bankruptcy in September 2011 to resolve that debt. Her lawyer converted the case to a Chapter 7 bankruptcy, and the case was discharged in November 2014. After the discharge, she focused on reducing her expenses and keeping her finances in order. (Tr. 25-67; GE 5, 6)

Applicant has been consistently employed and managed her monthly expenses after her 2011 bankruptcy. She claims she thought that bankruptcy was a viable way to assist her mother. When asked at the hearing, why she did not just get a part-time job to earn extra income, this did not occur to her, and it was never suggested to her. (Tr. 25-67; GE 4)

Applicant's counsel, whom she has used previously, charged her about \$500 to file her Chapter 13 bankruptcy in January 2021. Her monthly payment to the trustee was only about \$350 bi-weekly, which she could easily manage. In 2023, her counsel told her that he wanted to amend her filing, since the value of her car was reduced, it could reduce her monthly payment. The cost to refile was about \$1,500. The case was filed in March 2023, but the bankruptcy trustee and her mortgage holder objected to the plan, and

payments were not made to the trustee. The case was dismissed in June 2023. (Tr. 25-67; AE E, G; GE 2, 3, 4)

A fifth Chapter 13 bankruptcy case was filed in October 2023. The new case included her mortgage, which she had been previously paying on her own, and the bi-weekly payment to the trustee was now \$1,031. This case added \$700 to her bi-weekly payments, and she incurred \$3,900 in additional attorney's fees. (Tr. 25-67; AE E, G; GE 2, 3, 4)

Applicant had been maintaining her payments to the trustee through automatic deductions from her paycheck. She switched jobs for a short time, between April to July 2024, and then went back to her current employer when it appeared the new employer's government contract was being terminated. Her job switches caused delay in the autopayments to the bankruptcy trustee. Her attorney told her to continue making her payments, and the interruption would be explained. A motion to dismiss the case was filed in October 2024, and the hearing on the motion has been pushed back three times and is still in a pending dismissal status. The hearing is now scheduled for late April 2025. A post hearing submission shows that Applicant is making payments, but it did not clarify if anything was past due. As of February 5, 2025, the record shows she has paid \$19,746 out of \$44,663 in her bankruptcy plan, and it appears active. The plan has two more years of payments scheduled. (Tr. 25-67; AE F, K, L; GE 2)

In addition to Applicant's monthly expenses, she helps with expenses for her stepchildren. In 2022, she helped her nephew with \$3,500 to pay for legal expenses after he was arrested. She has not yet been paid back. She also gave her mom \$12,000 of financial assistance for two years. She had taken a financial counseling class as part of her bankruptcy case. She has a monthly budget and provided a copy. It shows she has about a \$950 remainder monthly. (Tr. 25-67; AE E; GE 7)

Applicant provided evidence that her student loans had been forgiven through the Department of Veterans Affairs. She also submitted three character letters which state she is reliable, trustworthy, and has good character. (AE A-D, N)

The SOR alleges the following:

SOR ¶ 1.a alleges a charged off consumer credit account for \$244. Applicant reported that this debt was included in her bankruptcy. Her January 2025 credit reports show this debt has a zero balance. (AE H, I, J)

SOR ¶ 1.b alleges a charged off credit card account for \$1,567. Applicant reported that this debt was included in her bankruptcy. Her January 2025 credit reports show this debt has a zero balance. (AE H, I, J)

SOR ¶ 1.c alleges a charged off credit card account for \$5,489. Applicant reported that this debt was included in her bankruptcy, and it's listed on her voluntary petition. This account no longer appears on her January 2025 credit reports (AE H, I, J; GE 2)

SOR ¶ 1.d alleges a charged off credit card account for \$4,180. Applicant reported that this debt was included in her bankruptcy, and it's listed on her voluntary petition. This account no longer appears on her January 2025 credit reports. (AE H, I, J; GE 2)

SOR ¶ 1.e alleges a Chapter 13 bankruptcy filed in August 2005 and discharged in May 2009. This allegation was discussed above.

SOR ¶ 1.f alleges a Chapter 13 bankruptcy filed in September 2011 and converted into a Chapter 7 bankruptcy in August 2014. It was discharged in November 2014. This allegation was discussed above.

SOR ¶ 1.g alleges a Chapter 13 bankruptcy filed in January 2021, and voluntarily dismissed in January 2023. This allegation was discussed above.

SOR ¶ 1.h alleges a Chapter 13 bankruptcy filed in March 2023, and dismissed in June 2023 for failure to make payments to the trustee. This allegation was discussed above.

Policies

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

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 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), 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."

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 security 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 of 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.

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

- (a) inability to satisfy debts; and
- (b) history of not meeting financial obligations.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (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;
- (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;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant made a mistake filing bankruptcy in 2021, when her intent was to reduce her expenses and help her mother with \$500 monthly in financial assistance. Instead of seeking additional income through a part-time job or other logical method to increase her income, she chose to file Chapter 13 bankruptcy. While she claims her finances are in order, the case was dismissed twice in 2023, and it is pending dismissal again now. Not enough evidence has been provided to show that she has met the obligations for her current bankruptcy case and that it will remain in place. Applicant has filed five bankruptcy cases in 20 years, and the financial issues remain ongoing. I cannot find that the financial consideration security concerns are unlikely to recur. While it appears that Applicant has made substantial payments under her Chapter 13 plan, the case has been pending dismissal since October 2024. Not enough evidence has been provided to find that she is adhering to a good faith effort to resolve debts or that the problem is under control. None of the 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 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 her military service and character letters. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. I conclude that Applicant has not mitigated the financial considerations security concerns. This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for eligibility for access to classified information in the future.

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-1.h: **Against Applicant**

Conclusion

It is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Ross D. Hyams
Administrative Judge