



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



In the matter of:

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ISCR Case No. 23-00788

Applicant for Security Clearance)

Appearances

For Government: David F. Hayes, Esq., Department Counsel

For Applicant: *Pro se*

02/18/2025

Decision

Curry, Marc E., Administrative Judge:

Applicant presented insufficient evidence of what progress, if any, he has made to resolve his delinquent debt. Under these circumstances, he failed to mitigate the financial considerations security concerns. His application for a security clearance is denied.

Statement of the Case

On May 16, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudications Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, explaining why it was unable to find it clearly consistent with the national security to grant or continue his security clearance eligibility. The DCSA CAS took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On August 11, 2023, Applicant answered the SOR, admitting all of the allegations and requesting a decision based on the written rather than a hearing. On August 23, 2023, Department Counsel prepared a File of Relevant Material (FORM), setting forth the Government's arguments against Applicant's security

clearance worthiness. The FORM contains six attachments, identified as Item 1 through Item 6.

Applicant received a copy of the FORM on August 24, 2023. He was given 30 days to file a response. He did not file a response. The case was assigned to me on October 27, 2023. After receiving the FORM, I admitted Items 1 through 6 into the record.

Findings of Fact

Applicant is 42 years old. He has been married since 2020 and was married previously from 2005 to 2017. His earlier marriage ended in divorce. He has six children, ranging in age from two to eighteen.

Applicant is a veteran of the U.S. Army, serving honorably on active duty from 2002 through 2006 and in the reserves from 2006 to 2017. (Item 3 at 1; Item 2 at 14) He has spent most of his career working in the information technology field and has been working for a defense contractor since March 2022. (GE 2 at 10)

Over the years, Applicant incurred approximately \$80,000 of delinquent debt. (Item 4) He attributed his financial problems to his divorce in 2017, together with a COVID-related job loss in 2020. (Item 4 at 10) During an investigative interview in March 2022, he promised to begin resolving his debt within three to six months of the interview. (Item 3 at 6) He did not do so.

In October 2022, Applicant completed interrogatories propounded by DCSA CAS. Per a budget he provided, he and his spouse earn approximately \$150,000 per year and have \$9,364 of monthly discretionary income. (Item 4 at 12)

Applicant, in his answer of August 2023, stated that he was working with a debt resolution company to consolidate his debts. (Item 2) He provided no evidence of any such efforts.

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 ¶ 1(d) 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. 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 applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline F: Financial Considerations

The security concern under this Guideline states, “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.” (AG ¶ 18)

Applicant’s history of financial problems triggers the application of AG ¶ 19(a), “inability to satisfy debts,” and AG ¶ 19(c), “a history of not meeting financial obligations.”

The following mitigating conditions under AG ¶ 20 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 debt.

Applicant attributed his financial problems to his divorce in 2017 and to a COVID-related job loss in 2020. Although these circumstances were beyond his control, he still has the burden of establishing that he acted responsibly, taking such steps as enrolling in financial counseling, developing a payment plan, communicating with his creditors, or making some other good-faith effort to resolve the debt. Applicant has provided no such evidence, despite first promising to do so more than two years ago during his March 2022 investigative interview.

Under these circumstances, AG ¶ 20(b) applies partially, with respect to Applicant's debt being caused by circumstances beyond his control, but none of the remaining mitigating conditions apply. Applicant failed to mitigate the financial considerations security concern.

Whole-Person Concept

I considered the whole-person concept factors discussed above in my analysis of the disqualifying and mitigating conditions, and they do not warrant a favorable conclusion.

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.o:

Against Applicant

Conclusion

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

Marc E. Curry
Administrative Judge