



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



In the matter of:)
)
XXXXXXXXXXXXXXXXX) ISCR Case No. 23-00256
)
Applicant for Security Clearance)

Appearances

For Government: Karen Moreno-Sayles, Esq., Department Counsel
For Applicant: *Pro se*

02/13/2025

Decision

KATAUSKAS, Philip J., Administrative Judge:

Applicant provided insufficient evidence to mitigate the national security concern arising from her problematic financial history. Her eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted her security clearance application (SCA) on February 1, 2022. On March 13, 2023, the Department of Defense (DOD) sent Applicant a Statement of Reasons (SOR) alleging that her circumstances raised security concerns under Guideline F (financial considerations). This action was taken under Executive Order (E.O.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended, as well as Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive). The *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information* (AG), effective within the Defense Department on June 8, 2017, apply here.

Applicant answered the SOR on March 26, 2023 (Answer) and requested a hearing before an administrative judge. Department Counsel was ready to proceed on May 5, 2023. The case was assigned to me on November 6, 2023. On July 3, 2024, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted in person on July 31, 2024.

I convened the hearing as scheduled. Government Exhibits (GE) 1 through 6 were admitted without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through AE D, which were admitted without objection. The record was left open until close of business August 30, 2024, to allow Applicant to submit additional exhibits. She timely submitted AE E through AE K, which were admitted without objection. DOHA received the transcript (Tr.) on August 12, 2024.

Findings of Fact

Applicant is 41 years old. She married in June 2012, separated in May 2020, and divorced in May or June 2024. She has three adult children, none of whom now live with her. She also has a 13-year-old son with whom she has joint custody with his father. She earned her associates degree in May 2012. She is still enrolled in college but is not on active status. Since January 2022, she has been employed by a defense contractor, which is her clearance sponsor. (GE 1-2; Tr. 43, 45.)

Under Guideline F, the SOR alleged that Applicant has twelve delinquent consumer debts totaling \$65,533. (SOR ¶1.) She admitted five of those debts. (Answer ¶¶ 1.a, b, d, h, and I.) She denied seven of those debts. (Answer ¶¶ 1.c, e – g, and i – k.) The debts alleged in the SOR are supported by the Government's credit reports. (GE 3 – 5.)

Applicant testified about her current employment. She has been employed by a defense contractor since January 31, 2022, but is now on medical leave. She was in training from January 31 to March 7, 2022, which was her first day on-post as an armed security officer. She injured herself on May 18, 2022. Her injury was related to her work, from standing. She worked from October 2022 to July 7, 2023, when she injured herself again, this time due to a physical training test she should not have been doing. She has been out of work since July 2023. (Tr. 29-31; GE 1.)

Applicant testified that when she was injured she stayed at home. Her income then was "not [her] working income." She did have a source of income "that keeps me just enough, just not even balanced, just keep me to pay a little what I can pay." The source of that income is Workers' Compensation. The first time she was out, from May 2022 to October 2022, she received \$450 a week. That put her "really in a bad place." When she went out again in July 2023, she received \$850 a week. (Tr. 31-32.)

Applicant testified that she does not currently have a clearance. She had a Secret clearance. When she was "falsely terminated" by her immediately-previous employer AA, she guesses AA closed out her clearance, "which made it even worse." She got her first

clearance in 2013, with her employer GM. She could not remember how long she worked for GM. Subsequently, she worked for a hospital as a security officer before 2018 but did not need a security clearance. She believed that her clearance went dormant because she was not using it. She picked up her security clearance again in 2018, when she worked for CN. From 2018 to the end of 2021, she worked at the same location until she was “falsely terminated” by AA. It looks like she went to multiple companies, but companies lost the contract, and new companies came in. She was “just changing [her] shirt.” About a month later (January 2022), she started with her current employer. (Tr. 32-35.)

(Note: Applicant refers several times to being “falsely terminated” by AA. (Tr. 32-35, 42.) In her personal subject interview (PSI), she explained what happened. In December 2021, while employed by AA, she called out for three or four days to attend meetings with her lawyers about her pending divorce. She claimed her absence was verbally permitted. When she returned to work, however, her termination was already written up. She submitted documents showing her absences were legitimate. After a week or so, she had not heard from human resources, so she inquired. She was told to bring her duty belt and equipment to the office, and she was verbally terminated. She was not given any documentation. She decided not to follow up and took another job, the one with her current employer-sponsor (January 2022). (GE 2.)

From about 2018 to 2022, Applicant made between \$28 and \$35.83 per hour. In 2018, she made \$28 per hour from CN. Her current job started her at \$35.83 per hour in January 2022, however, she was not guaranteed 40 hours. One week she had 35 hours, and another week she had 13 hours. It depended on the schedule. When she returned to work in November 2022, she was making \$40.63 per hour. Her income was unpredictable. Her “yearly income has never been consistent.” She “was completely out of [her] marriage” when her medical problems occurred. She was separated in May 2020 and divorced in May or June 2024. (Tr. 35-39, 42-43.)

Applicant testified about her estimated yearly income in 2019 or 2020. One year she thinks she made \$40,000 or \$60,000, but her “yearly income has never been consistent,” especially since she was terminated by AA (December 2022). It was made worse, because of “this amount of time [she] was [un]able to work.” Her estimates for 2019 and 2020 ranged from \$50,000 to \$60,000, maybe \$68,000 for 2019, and 2021 maybe \$50,000, and then for 2022, for two years, maybe, \$45,000 and \$30,000. (Tr. 41.)

Applicant testified about her former spouse:

She was ‘in a bad place financially and in [her] marriage because the money that [she] was taking home because somewhere – and it says that the money is shared money. So when money is being taken that I’m working for, and it’s taken by somebody who they say is supposed to be my equal and is supposed to be my spouse, and there’s nothing I can really do about it.’ (Tr. 40.)

Applicant's ex-spouse did not work. "During the duration of the marriage, . . . he was unemployed." He did not collect unemployment. "He had [a] CDL (Commercial Driver's License)." He did not contribute financially at all to household or marital expenses. She has had a cohabitant since May 2023. Her cohabitant is employed by the District of Columbia government. Her cohabitant contributes to household expenses. Applicant's retirement account balance is about \$1,700. She has no savings account. Her checking account balance is about \$80. Other than Worker's Comp, she has no sources of income. She supports her 13-year-old son, but neither she nor his father pay child support, because they have joint (half and half) custody. (Tr. 43, 46-49.)

Applicant brought a lawsuit against AA, her former employer. It was a class action for overtime hours. She is a part of the suit, because she worked for AA during the relevant time period. The suit has been settled and approved. The settlement checks should be mailed by the end of August 2024. Her share is \$6,277. Exhibit AE D is a Notice to Applicant of Class/Collective Action Settlement dated May 27, 2024, captioned *Plaintiffs, et al. v. AA, Defendant (U.S. Dist. Ct. D.C.).* (Tr. 46-47.)

SOR ¶ 1.a is an account charged off for \$12,700. Applicant was referred to GE 4 (February 23, 2022 credit report). She confirmed that she voluntarily surrendered the auto in question but did not remember when. She was referred to GE 3 (November 7, 2022 credit report) and GE 5 (July 24, 2024 credit report) and agreed that the amount was unchanged. In her Answer, she said she had agreed to settle with the creditor for \$1,470. Her plan is to contact the creditor to see if that settlement is still available. If it is, she will use the AA Settlement money to pay this debt. She does not have any documentation about that offer. She asked the creditor, but it said they could not provide documentation. She will try to have the creditor send her an email about the account. (Tr. 50-53.) AE E is an August 2, 2024 settlement offer from the creditor for less-than-full-value of \$1,470 payable by August 9, 2024. There is no documentation that she accepted this offer and has paid it. This debt has not been resolved.

SOR ¶ 1.b is an account charged off for \$8,730 for another auto loan. This account originated in February 2019. She agreed that: (1) she disputed this amount in GE 4; (2) her March 2022 PSI reported that her ex-spouse damaged the auto and left her with the bill; and (3) her PSI reported that she was in the process of setting up a payment plan. There has been no change to this account. She contacted the creditor and was told it would not set up a payment arrangement. She will try again, but she has not done so recently, because she is "not in a place to even -- to try to set up a payment plan." But when she "gets the money [she is] expecting, she "will give it another try." (Tr. 53-56.) AE F is an August 1, 2024 settlement offer from the creditor of 36 monthly payments of \$121 for 36 months starting August 30, 2024. She provided no evidence of her acceptance or any payments under that offer. This debt has not been resolved.

SOR ¶ 1.c is an account charged off for \$7,849 for an apartment complex that originated in November 2019. Applicant was referred to her March 2022 PSI which reported she was working on a payment arrangement. Her Answer said she was offered a settlement of \$4,000 that would take care of the account by the end of 2023. She

testified that not long after that she was out of work again with an injury and was unable to make any payment. She will contact them to see where the account stands. (Tr. 56-57.) This debt has not been resolved.

SOR ¶ 1.d is an account charged off for \$4,941 for furniture rented for Applicant's daughter originating in June 2021. Applicant thought she was a co-signer, but apparently she was the only signer. The March 2022 PSI reported that Applicant was making payments of \$131 per month since July 2021. She testified that she "got behind when [she] got terminated" [by AA in December 2021]. In her Answer, Applicant said the creditor agreed to a settlement of \$1,900 and that she would take care of it by September 2023. The account is reported as "current" on the July 24, 2024 credit report. (GE 5.) She did not settle the account. But she spoke with a customer service supervisor about lowering the amount, because fees were added that increased the amount due. Maybe the supervisor "agreed with [her] point of view and felt like it was unfair." While Applicant had no documentation showing how the account was resolved, the latest credit report (accessed a week before the hearing) shows this debt as "current." This debt has been resolved. (Tr. 57-59.)

SOR ¶ 1.e is an account in collection for \$1,906. Applicant does not know what this account was, and she disputed it. "It should have been erased," because she does not know what it is. She disputed it on the February 2022 credit report (GE 4), there was no change on the November 2022 credit report (GE 3), and it is not reported as 'current' on the July 2024 credit report (GE 5). She had no documentation showing why the account was not reported or if she resolved it. This debt has not been resolved. (Tr. 59-60.)

SOR ¶¶ 1.f and 1.g are two wireless accounts in collections with the same creditor for \$1,840 and \$1,364, respectively. Applicant testified that one account was for a former residence that somehow got services in her name when she no longer lived there. It took "forever to get through to [the creditor] to get something resolved." It involved a "tedious" and "frustrating" process. The other account was for services she applied for, was denied but was billed. She believes that denial was in 2020. The account for \$1,840 would have been the one where services were received in her name. She is not aware of the second account, the one for \$1,364. She has disputed these accounts but has no documentation supporting her disputes, (GE 3-5.) These debts have not been resolved. (Tr. 60-62.)

SOR ¶ 1.h is an account in collection for \$963. Applicant testified that "this was a credit card, and it was paid." She "reached out to [the creditor] and [it] said disregard it and they will remove it from my credit report . . . it should have been removed." She "has it on [her] phone where the communication with [the creditor] where they said it is supposed to be removed." (Tr. 62-64.) AE G is a card statement from the creditor for the period June 29, 2024, to July 28, 2024, showing a zero balance for this account. This debt has been resolved.

SOR ¶¶ 1.i and 1.j The Government moved to withdraw these allegations, which motion was granted without objection. (Tr. 64-65.)

SOR ¶ 1.k is for a \$24,356 balance due on a vehicle that has been repossessed. Applicant testified that the vehicle was not repossessed but was totaled. The insurance paid off everything but \$2,000. She agreed that GE 5 shows \$2,355 past due. She has not made any payments on that amount, because she is trying to have it made part of her current car loan which is with the same creditor. (Tr. 65-69.) This debt has not been resolved.

SOR ¶ 1.I is a credit card account with a past due of \$150 and a total balance of \$347. AE H is a letter from the creditor dated August 5, 2024, stating that the account balance as of that date is zero. (Tr. 69-70.) This debt has been resolved.

In summary, Applicant has not resolved SOR ¶¶ 1.a-1.c, 1.e-1.g, and 1.k. She has resolved SOR ¶¶ 1.d, h, and 1.l. The Government withdrew SOR ¶¶ 1.i and 1.j.

Delinquent Accounts Not Alleged in the SOR

Applicant was referred to two accounts on GE 5 with [Agency A], one for \$128 past due and one for \$106 past due. She believed they may be application fees for apartments that were denied. (Tr. 71-72.) AE J is from Agency A showing that on August 16, 2024, she settled these accounts for less than full balance.

Applicant was referred to an account on GE 5 with [Agency B] for \$1,356. This was for a cellphone. She claimed that the past due is not \$1,356 but is about \$400. She “had backed up [on that account] when [she] wasn’t working.” (Tr. 72.)

Applicant was referred to GE 6, a June 2018 credit report showing eleven medical accounts in collections. She testified that those accounts should have been taken care of by insurance. She did not know what medical issue caused those accounts. She has G’s Disease and a heart condition. But G’s Disease was not diagnosed until 2020. She has had her heart condition since 2008. Those accounts could have been for when she was hospitalized or saw a doctor for that condition. She was not sure – did not know. Department Counsel noted that the medical accounts were in 2015 through 2017. Applicant testified that her medical conditions sometimes caused her financial hardship. (Tr. 73-76.)

Miscellaneous

Applicant was referred to her PSI where she mentioned a credit counseling services agency. She testified that she signed up but soon discontinued its services, because she was not sure what services she was paying for. It “just was a miscommunication.” (Tr. 76-77.)

Applicant is current on her taxes. She does not owe any federal taxes but might owe something to the state. She does not know. She files every year and filed in April 2024. (Tr. 77-78.)

Going forward, Applicant's plan is to use her AA settlement money "in its entirety to pay off as many of these accounts as [she] can." Next, she plans to "sit with a financial adviser to advise [her] financially so that [she] won't go through this ever again in life." (Tr. 78.)

Character Evidence

Applicant submitted two character reference letters which are summarized below.

The first letter (undated) is from the President and Chief Operating Officer of a leadership and success society at a well-known university. He attested that Applicant completed a rigorous leadership and training program through his organization. Through hours of hard work, and after evaluations by college staff and by the National Office, she was awarded the Foundation of Leadership Certification.

To achieve induction into the society, Applicant attended leadership training focused on collaborative teamwork, goal setting, leadership skills, and accountability. She will bring exemplary qualities already developed to any organization. Having completed the leadership program, she will be well prepared for the next step in her professional journey. (AE A.)

The second letter is dated July 9, 2024, from a Professor of Criminal Justice at a community college. He observed Applicant as a highly capable and intellectually curious individual. She demonstrated an ability to think critically and independently. Beyond her academic achievements, she has exemplary personal qualities. She has been actively involved as a volunteer with the XYZ County Fire Department and as a volunteer at a domestic violence safe house. The author wholeheartedly recommends her for the law school program. (AE B.)

Applicant is still enrolled in college but is not on active status. (GE 2.) She testified that: "[W]ith . . . all the credit debt and it has been up and down for me income-wise, I have not let that discourage me. I go to school. I got a 3.87 GPA during a time where I felt it was the worst part of my life." (Tr. 40.) She plans to go to law school. (Tr. 38.) AE C is her July 23, 2024 Appointment Confirmation to take the Law School Admission Test on August 7, 2024.

Law and Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the adjudicative guidelines. These guidelines are

flexible rules of law that apply together with common sense and the general factors of the whole-person concept. An administrative judge must consider all available and 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 ¶ 12(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, then 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 in seeking a favorable security decision.

Analysis

Guideline F - Financial Considerations

The security concern relating to Guideline F 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.

This concern is broader than the possibility that an individual might knowingly compromise classified information in order to raise money. It encompasses concerns about an individual's self-control, judgment, and other qualities essential to protecting classified information. An individual who is financially irresponsible may also be irresponsible, unconcerned, or negligent in handling and safeguarding classified information. ISCR Case No. 11-05365 at 3 (App. Bd. May 1, 2012).

Guideline F notes conditions that could raise security concerns under AG ¶ 19. The followings conditions are applicable in this case:

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

The SOR debts are established by Applicant's admissions and the credit reports. They were delinquent when the SOR was issued in March 2023. Therefore, AG ¶¶ 19(a) and (c) apply. The next inquiry is whether any mitigating conditions apply.

Guideline F also includes conditions that could mitigate security concerns arising from financial difficulties. 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, . . . divorce or separation), and the individual acted responsibly under the circumstances);
- (c) the individual has received . . . financial counseling for the problem from a legitimate and credible source . . . and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

I have considered mitigating condition AG ¶ 20(a). Applicant's SOR debts were frequent and endure to this day. AG ¶ 20(a) does not apply.

I have considered mitigating condition AG ¶ 20(b). Applicant lost her job in December 2021 under circumstances that from her point of view were at least questionable and unfair. She did, however, secure new employment promptly with her current employer. So, that job loss did not contribute to her indebtedness. Applicant has suffered from a medical injury in her current job that has interfered with consistent employment. That is a condition largely beyond her control. The question is whether she acted responsibly when faced with that adversity. The evidence is not helpful. For example, she contacted two SOR creditors *after the hearing*, about settlement offers and a third about her balance. (SOR ¶¶ 1.a, 1.b, and 1.l.) For other creditors, she either had not contacted them at all or promised to do so. (SOR ¶¶ 1.c, and 1.e-g, and 1.k.)

Ideally, contacts with creditors should have been made *before* or at least soon *after* the clearance process began in February 2022, before she went out for medical reasons in May. She did not act responsibly under her circumstances. AG ¶ 20(b) does not apply.

I have considered mitigating condition AG ¶ 20(c). Applicant signed up for and briefly took credit counseling. She, however, soon discontinued it because she was unsure what the services were. She called it a “miscommunication.” This mitigating condition does not apply.

I have considered mitigating condition AG ¶ 20(d). Applicant testified about having a payment arrangement offer with one SOR creditor (SOR ¶ 1.b), but she did not provide any documentation evidencing her acceptance or any payments under that arrangement. She was working on an arrangement with another SOR creditor but provided no documentation that the arrangement was ever consummated or that it was in progress. (SOR ¶ 1.c.) This mitigating condition does not apply.

I have considered mitigating condition AG ¶ 20(e). Applicant disputed four SOR accounts (SOR ¶¶ 1.b, and 1.e-1.g). She did not, however, provide documents to substantiate the basis of the disputes or evidence of actions to resolve the issues. This mitigating condition does not apply.

Whole-Person Concept

Under AG ¶ 2(a), 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. AG ¶¶ 2(a) and (d)(1)-(9) (explaining the “whole-person” concept and factors). In my analysis above, I considered the potentially disqualifying and mitigating conditions and the whole-person concept in light of all the facts and circumstances surrounding this case. There are two exhibits that bear favorably on Applicant’s character. They are AE A and AE B. I have carefully weighed these exhibits. They reflect positively on Applicant’s character, and I have given them the commendatory value they deserve.

Nevertheless, Applicant leaves me with questions and doubts about her eligibility and suitability for a security clearance. Therefore, I conclude that Applicant has not provided sufficient evidence to mitigate the security concerns arising under Guideline F, financial considerations.

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.c:	Against Applicant
Subparagraph 1.d:	For Applicant
Subparagraphs 1.e-1.g:	Against Applicant
Subparagraph 1.h:	For Applicant
Subparagraphs 1.i-1.j:	Withdrawn
Subparagraph 1.k:	Against Applicant
Subparagraph 1.l:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Clearance is denied.

Philip J. Katauskas
Administrative Judge