



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



In the matter of:

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ISCR Case No. 24-00891

Applicant for Security Clearance )

**Appearances**

For Government: Brittany C. White, Esq., Department Counsel

For Applicant: *Pro se*

06/17/2025

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**Decision**

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Curry, Marc E., Administrative Judge:

Applicant's federal and state income tax returns remain unfiled, and Applicant has submitted insufficient evidence supporting his contention that he is working with a tax professional to prepare them. Under these circumstances, I conclude Applicant has failed to mitigate the financial considerations security concerns. His application for a security clearance is denied.

**Statement of the Case**

On September 30, 2024, the Defense Consolidated Adjudications Services (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 security clearance eligibility. The 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 October 18, 2024, Applicant answered the SOR, admitting the allegations and requesting a decision based on the evidence on file rather than a hearing. On November 19, 2024, Department Counsel prepared a File of Relevant Material (FORM), setting forth the Government's arguments against Applicant's security clearance worthiness. The FORM contains four attachments, identified as Item 1 through Item 4.

Applicant received a copy of the FORM on December 6, 2024. He was given 30 days to file a response. He did not file a response, whereupon the case was assigned to me on February 14, 2025. After receiving the FORM, I admitted Items 1 through 4 into the record.

### **Findings of Fact**

Applicant is a 29-year-old single man with no children. He has earned some college credits. In 2021, he earned a technical certificate. (Item 3) He has been working for a contractor as a software engineer since June 2022. (Item 3)

Applicant failed to file, as required, federal and state income tax returns from 2018 to 2021. He attributes this failure to a discrepancy with the number of W-2 forms he received. Specifically, the number of employers with whom he worked did not match the number of W-2 forms he received. (Item 4 at 7; Item 2 at 42) In approximately October 2022, he attempted to resolve this problem by consulting a tax professional. In July 2024, in response to interrogatories, he stated that he was working with a tax professional, but did not elaborate on any progress made since 2022.(Item 2 at 42) As of the date of Applicant's SOR answer, his federal and state income tax returns remain unfiled.

### **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 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 failure to file his federal and state income tax returns from tax years 2018 to 2021 triggers the application of AG ¶ 19(f), “failure to file or fraudulently filing annual federal, state, or local income tax returns or failure to pay annual federal, state, or local income tax, as required.”

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;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debt; and
- (g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

Applicant still has not filed his back tax returns. Although he contends that he has been working with a tax professional since 2022, he provided no evidence of what steps the tax professional is taking to resolve the problem that is allegedly precluding Applicant from filing his tax returns properly. As such, while some mitigation could be applicable for the circumstances beyond his control that led to the initial failure to timely file and some additional delay caused by the issues with the discrepancy with the W-2 forms, it does not appear that Applicant has acted responsibly under the circumstances as he has not yet remedied this problem. The potential mitigating conditions under AG ¶ 20 are not applicable.

### **Whole-Person Concept**

I considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, discussed above, 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.b:

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.

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Marc E. Curry  
Administrative Judge