



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



In the matter of:)	
)	
)	ISCR Case No. 14-06761
)	
Applicant for Security Clearance)	

Appearances

For Government: Tovah Minster, Esq., Department Counsel
For Applicant: *Pro se*

02/22/2016

Decision

CURRY, Marc E., Administrative Judge:

Applicant failed to provide enough documentary evidence to substantiate his contention that his financial problems are under control. Clearance is denied.

Statement of the Case

On May 15, 2015, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on September 1, 2006.

On August 14, 2015, Applicant answered the SOR, admitting all of the allegations, and requested a decision on the record rather than a hearing. On September 23, 2015, Department Counsel prepared a File of Relevant Material (FORM)

consisting of documents supporting the government's allegations. Applicant received the file on October 5, 2015, and was informed that he had until November 4, 2015 to submit a response. Applicant did not reply, and the case was subsequently assigned to me on November 10, 2015.

Findings of Fact

Applicant is a 26-year-old single man with two children, ages five and seven. He graduated from high school in 2008. Since 2013, he has worked for a defense contractor as a maintenance man. (Item 3 at 1)

Applicant has approximately \$17,000 of delinquent debt. Approximately \$16,000 of this debt, as alleged in SOR subparagraph 1.a, is back child support that has been delinquent since 2009. (Item 3 at 4) Subparagraphs 1.b and 1.c., totalling approximately \$500, are utility bills, and the debt alleged in subparagraph 1.d stems from a judgment for \$667 entered against Applicant in 2012.

Applicant attributes his financial problems to lengthy periods of unemployment between November 2009 and July 2013. (Item 3 at 4-5) Applicant contends that upon beginning his current employment, he contacted his payroll office to arrange for both current and back child support to be deducted from his paycheck. (Item 3 at 4) He also contends that he will pay the other SOR debts now that his employment is stable. He provided no corroborating documentary evidence of any child support or debt payments.

Policies

The adjudicative guidelines list potentially disqualifying conditions and mitigating conditions. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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 access to classified information will be resolved in favor of 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 applicant or proven by department counsel. . . ." The applicant has the ultimate burden of persuasion for obtaining a favorable security decision.

Under the whole-person concept, the administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a). 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

Under this guideline, "failure or inability 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 information." (AG ¶ 18) Applicant has approximately \$17,000 of outstanding delinquent debt, nearly all of which is composed of a child-support delinquency. AG ¶ 19(a), "inability or unwillingness to satisfy debts," and AG ¶ 19(c), "a history of not meeting financial obligations," apply.

The following mitigating conditions are potentially applicable.

(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;

(c) the person has received or is receiving counseling for the problem and/or there are clear indications that the problem is being resolved or is under control; and

(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.

Although Applicant's financial problems were substantially related to lengthy periods of unemployment between 2009 and 2013, he has failed to provide any documentary evidence supporting his contention that he has either paid or is making payments toward the satisfaction of these debts. Under these circumstances, none of the mitigating circumstances apply, and Applicant has failed to mitigate the financial considerations security concerns.

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.d:	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 Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

MARC E. CURRY
Administrative Judge