



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



In the matter of:)	
)	
XXXX, Xxxxxxxx Xxxxxx)	ISCR Case No. 14-04836
)	
Applicant for Security Clearance)	

Appearances

For Government: Alison O’Connell, Esquire, Department Counsel
For Applicant: Alfred Deas, Jr., Personal Representative

07/21/2015

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I deny Applicant’s clearance.

On 6 January 2015, the Department of Defense (DoD) issued an SOR to Applicant detailing security concerns under Guideline F, Financial Considerations.² Applicant timely answered the SOR, requesting a hearing before the Defense Office of Hearings and Appeals (DOHA). DOHA assigned the case to me 13 April 2015, and I convened a hearing 27 May 2015. DOHA received the transcript (Tr.) 4 June 2015.

¹The record consists of the transcript (Tr.), Government exhibits (GE) 1-3, and Applicant exhibits (AE) A-E.

²DoD acted under Executive Order 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) effective within the DoD on 1 September 2006.

Findings of Fact

Applicant admitted the SOR allegations, except for SOR 1.d, which he denied, claiming, without corroboration, that the debt had been paid. He is a 26-year-old industrial security specialist employed as a defense contractor since December 2013. He was previously employed with another defense contractor as a security officer from August 2007 to December 2013. Applicant seeks to retain the clearance he has held since January 2009.

The SOR alleges and Government exhibits (GE 1-3) establish four delinquent debts totaling nearly \$25,000. Applicant admits three debts totaling \$24,400: two automobile repossessions (SOR 1.a for \$12,309; SOR 1.b for 11,075) and an unpaid tuition bill dating back to 2007 (SOR 1.c for \$1,028). Applicant reported the repossessions on his January 2014 clearance application (GE 1).

On 18 May 2015, Applicant claimed to have reached repayment agreements with the creditors on the two repossessions. He claimed, without corroboration, to have agreed to pay \$200 monthly beginning 1 June 2015 on SOR debt 1.a (Tr. 51). He also claimed, without corroboration, that the collection agent agreed to reduce the balance due from about \$10,000 to \$6,000 (Tr. 29). He agreed to pay \$150 monthly beginning 1 June 2015 on SOR debt 1.b (AE B).³ Applicant has had no contact with the community college or its collection agent since leaving school in 2007, and the account has now aged off his credit report. Applicant has no plans to address this account since it has aged off his credit report (Tr. 59-60).

Applicant acknowledged that he had been young and naive about his finances (Tr. 37). When he got behind on his payments on his first car loan (SOR 1.b) because of mechanical issues with the car, he voluntarily surrendered it to the lender in September 2011 (Tr. 41-42). However, he made no effort to communicate with the lender or its collection agent regarding any balance due until after he received the SOR. He got behind on his second car loan (SOR 1.a) in part because he had some minor health issues for which he did not have health insurance.⁴ That car was involuntarily repossessed in September 2013 (Tr. 46). He made no effort to communicate with this lender or its collection agent regarding any balance due until after he received the SOR.

In March 2015, Applicant bought a 2015 vehicle for \$24,000. He financed the vehicle over 63 months at 18% interest (Tr. 61). His monthly payment is \$550 (AE C), of which he has made one.

Applicant has received no credit or financial counseling. His budget (AE C) shows sufficient positive cash flow to meet his repayment plans (Tr. 39). His supervisor

³The balance on which had grown to \$12,737,

⁴Applicant had missed the application window for his employer-sponsored health plan and thus had to pay the medical bills by himself (Tr. 87).

considers him honest and trustworthy, but does not appear to have any knowledge of Applicant's financial problems (AE E). Applicant's co-worker considers him honest and trustworthy, but has no knowledge of Applicant's financial problems (Tr. 67-68). A long-time family friend considers him honest, trustworthy, and reliable, and is generally aware that Applicant has financial problems (Tr. 71-73). Applicant's mother considers him honest, open, and trustworthy, but is aware that he has made some poor financial choices (Tr. 76-79).

Policies

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed when a case can be measured against them, as they are policy guidance governing the grant or denial of a clearance. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline F (Financial Considerations).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, disputed facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a compelling interest in ensuring each applicant possesses the required judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels deciding any reasonable doubt about an Applicant's suitability for access in favor of the Government.⁵

Analysis

The Government established a case for disqualification under Guideline F, and Applicant did not mitigate the security concerns. Applicant has delinquent debt dating back to at least 2007 that he has not addressed despite possessing the apparent means to do so.⁶

⁵See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁶¶19 (a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

Conclusion

Under the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance denied.

JOHN GRATTAN METZ, JR
Administrative Judge