



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



In the matter of:	)	
	)	
XXXXXX, Xxxxxx XXXXXXXX	)	ISCR Case No. 14-04935
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Julie R. Mendez, Esquire, Department Counsel  
For Applicant: *Pro se*

03/09/2016

**Decision**

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,<sup>1</sup> I deny Applicant's clearance.

On 20 April 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.<sup>2</sup> Applicant timely answered the SOR, requesting a decision without hearing by the Defense Office of Hearings and Appeals (DOHA). The record in this case closed 24 September 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 20 January 2016.

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<sup>1</sup>Consisting of the File of Relevant Material (FORM), Items 1-5.

<sup>2</sup>DoD 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 financial allegations. He is a 36-year-old administrative support officer employed by a U.S. defense contractor since February 2004. His clearance status is unclear. Applicant served on active duty in the U.S. military from June 1999 to August 2003, and received an honorable discharge.

Applicant married in February 2001. He and his wife have two children, a son born in December 1999 and a daughter born in June 2001. Applicant and his wife separated in October 2008 (Item 5). They have no separation agreement, and apparently, no immediate intent to divorce. When they separated, Applicant claims that he paid his wife approximately \$700 monthly child support. However, he paid her in cash, and kept no records of his payments. He does not say how long he made these payments. His wife filed for child support with the state, and Applicant was assessed child support arrears.

The SOR alleges, Government exhibits (Items 3-5) substantiate, and Applicant admits an \$8,967 delinquent child support account referred to collection, of which \$7,588 is past-due, and a delinquent education loan that is \$822 past-due on an \$11,961 balance (Item 4). Applicant also admits filing a Chapter 13 bankruptcy petition in June 2008 for \$7,000, and receiving a discharge of his dischargeable debts in November 2011. Applicant documented no contacts with his creditors, and provided no evidence of their current status. Applicant attributes his financial problems generally to his separation from his wife. Although the circumstances of his delinquent child support are clear enough, he has not really explained why his education loan is delinquent.

Applicant discussed his financial and marital situations with a Government investigator during a May 2014 subject interview. He has not documented any contact with his creditors since completing his clearance application in March 2014 and discussing his personal situation with the Government investigator in May 2014. He has stated no plan for addressing his delinquent debts. He provided no budget or financial statement. Applicant has not received any credit counseling or debt consolidation. He provided no work or character references, or any evidence of community involvement.

## **Policies**

The adjudicative guidelines (AG) list factors for evaluating 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 reflect a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). Any one disqualifying or mitigating condition is not, by itself, conclusive. However, specific adjudicative guidelines should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. 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, controverted 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 requisite judgement, reliability, and trustworthiness of those who must protect national interests as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.<sup>3</sup>

### Analysis

The Government established a case for disqualification under Guideline F, and Applicant failed to submit sufficient evidence to mitigate the security concerns. Applicant has a history of financial difficulties, which are ongoing.<sup>4</sup> Applicant's financial problems appear to date from at least 2008, when he first filed for bankruptcy relief. However, he successfully completed his Chapter 13 bankruptcy in November 2011, over four years ago. That bankruptcy no longer holds any security concerns. Nevertheless, despite steady employment since February 2004, there is no evidence of any efforts by Applicant to resolve his child support and educational loan debts. These are debts that could not be discharged in bankruptcy.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the immediate causes of his problems could be resolved if Applicant and his wife reached a separation agreement and/or a divorce.<sup>5</sup> Applicant's separation was certainly beyond his control, but his failure to negotiate a formal settlement of marital issues with his wife was not, and he has not shown that he has otherwise been responsible in addressing his two debts.<sup>6</sup>

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<sup>3</sup>See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

<sup>4</sup>¶19(a) inability or unwillingness to satisfy debts; (c) a history of not meeting financial obligations;

<sup>5</sup>¶20(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur . . .

<sup>6</sup>¶20(b) the conditions that resulted in the financial problem were largely beyond the person's control . . . and the individual acted responsibly under the circumstances;

Applicant submitted no evidence to show that he received credit or financial counseling, and his debts are clearly not being resolved.<sup>7</sup> There are no signs that Applicant has been in contact with any of the creditors alleged in the SOR, and thus he cannot establish that he has made a good-faith effort to address his debts.<sup>8</sup> Moreover, Applicant has mostly disregarded these financial obligations since completing his clearance application in March 2014. His documented inaction for over a year raises significant security concerns that Applicant has not begun to address. Accordingly, I conclude Guideline F against Applicant.

### **Formal Findings**

Paragraph 1. Guideline F:	AGAINST APPLICANT
Subparagraph a:	For Applicant
Subparagraphs b-c:	Against Applicant

### **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.

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JOHN GRATTAN METZ, JR  
Administrative Judge

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<sup>7</sup>¶20(c) the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control;

<sup>8</sup>¶20(d) the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts.