



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
 XXXXXX, Xxxxxxxx Xxxxxxxx XXX) ISCR Case No. 14-05499
)
 Applicant for Security Clearance)

Appearances

For Government: Pamela C. Benson, Esquire, Department Counsel
For Applicant: *Pro se*

02/19/2016

Decision

METZ, John Grattan, Jr., Administrative Judge:

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

On 9 May 2015, the Department of Defense (DoD) sent Applicant a Statement of Reasons (SOR) raising security concerns under Guideline F, Financial Considerations.² 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 22 October 2015, when Applicant's response to the FORM was due. Applicant provided no additional documents. DOHA assigned the case to me 23 December 2015.

¹Consisting of the File of Relevant Material (FORM), Items 1-5.

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 financial allegations. He is a 36-year-old welder employed by a U.S. defense contractor since August 2013. He has not previously held a clearance. He has been married since September 2005, and has two children. His wife works outside the home.

The SOR alleges, Government exhibits (Items 3-4) substantiate, and Applicant admits 13 delinquent debts totaling over \$70,000. Applicant also admits filing a Chapter 7 bankruptcy petition in September 2004, and receiving a discharge of his dischargeable debts in December 2004. Applicant has not been in contact with any of his creditors. In his May 2015 Answer to the SOR, Applicant stated his intent to file for bankruptcy protection again within the next month. He submitted no evidence indicating that he had begun the process.

Applicant's November 2013 clearance application (Item 4) reported the two delinquent credit card debts alleged at SOR 1.i and 1.j. He discussed these two debts, his bankruptcy, and six other SOR debts listed on his January 2014 credit report (Item 3) during a March 2014 subject interview with a Government investigator (Item 5). Applicant acknowledged owing these debts.³ His plan was to enter into payment plans with his creditors or enter a debt consolidation plan once his income was more stable.

Applicant also discussed his employment history. From April 2006 until he obtained his current job in December 2013, Applicant had 11 full-time jobs. He obtained these jobs through his union; his employers paid him directly. All of these jobs, except for one job that lasted from May 2007 to December 2008, lasted less than a year. Consequently, between October 2004 and January 2013, Applicant experienced 11 separate periods of unemployment. Most of the periods of unemployment were a few months. One exception was the eight months' unemployment he experienced from October 2004 to May 2005, just as he was filing for his 2004 bankruptcy. The second exception was the year's unemployment he experienced from May 2009 to May 2010. During his unemployment periods, he lived off unemployment benefits and his savings.

Applicant has not documented any contact with his creditors since completing his clearance application in November 2013 and discussing his delinquent debts with the Government investigator in March 2014. He has stated no plan for addressing his delinquent debts, beyond the promised bankruptcy filing. 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.

³SOR 1.b, 1.e-1.g, and 1.i-1.l.

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.⁴

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 and unlikely to be resolved any time soon.⁵ Applicant's financial problems appear to date from at least 2004, when he first obtained bankruptcy relief. They were exacerbated by Applicant's employment situation from October 2004 to December 2013, with its multiple unemployment periods, particularly the year he was unemployed from May 2009 to May 2010. However, despite steady employment since November 2013, there is no evidence of any efforts by Applicant to resolve the debts.

Applicant meets none of the mitigating conditions for financial considerations. His financial difficulties are both recent and multiple; although the immediate causes of his

⁴See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

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

