



Between 2005 and 2013, Applicant sought treatment from the Department of Veterans Affairs but found the prescribed narcotics ineffective and the counselors not helpful. He obtained a prescription for medical marijuana under his residential state law in 2013 and has used that prescription to manage his PTSD, anxiety, depression, and pain from injuries sustained in combat, to include his TBI.

In his June 2023 security clearance application (SCA), Applicant disclosed that he began using marijuana in 2013 and had a prescription for medical marijuana to treat PTSD. He described using the drug daily and acknowledged that he intended to use it in the future. In his October 2023 response to interrogatories, Applicant disclosed that he continued to use marijuana to-date and acknowledged his understanding that marijuana use remains illegal under federal law and that future use may affect his security eligibility. Despite that awareness and potential consequence, he reiterated his intention to continue using marijuana in the future.

Based on the foregoing, the SOR alleged that Applicant had used marijuana since 2013, including after submitting his SCA, and that he intended to continue to use marijuana in the future. In his February 2024 response to the SOR, Applicant admitted the allegation, including his continued marijuana use to-date and intentions for future use. He explained that his use was responsible, in accordance with local regulations, and did not affect his job performance or security responsibilities.

During his August 2024 hearing, Applicant testified that he would consider abstaining from future marijuana use if it meant he could obtain his clearance and stated that he intended to work with his private doctors and VA care providers to find alternative means to manage his PTSD, anxiety, depression, and pain. At the end of the hearing, the Judge offered to keep the record open, but Applicant declined because there was nothing he needed to add, and the record was closed. Almost six months later, in February 2025, Applicant requested that the record be reopened to submit additional evidence, and the Government did not object. As post-hearing evidence, Applicant submitted a statement noting that, “I have limited my use strictly to weekends for the past couple of months and I intend to discontinue use entirely.” Applicant Exhibit C.

After finding Applicant’s conduct disqualifying under AG ¶¶ 25(a) and 25(c), the Judge noted favorably that Applicant self-reported and openly discussed his marijuana use, and he “maintained he did not truly understand that marijuana, which is federally illegal, would impact his security clearance eligibility and provided no exceptions for medical marijuana use until he underwent the security clearance process.” Decision at 6. Despite the mitigative impact of his candor and circumstances, the Judge found that Applicant’s lengthy period of marijuana use coupled with his continued use for months after his hearing, all with awareness of its federal illegality and security implications, precluded full mitigation of the Guideline H concern.

On appeal, Applicant charges that the Judge’s analyses of the mitigating conditions and Whole-Person Concept failed to fully consider the “limited and medically authorized” circumstances of his marijuana use to address “serious health issues incurred while serving [his] country.” Appeal Brief at 1. Applicant’s emphasis on the combat-related and state-compliant circumstances underlying his marijuana use – both of which were fully considered in the Judge’s decision – is misplaced. It is not necessarily his history of marijuana use that raises questions about

his judgment and reliability, but rather his persisting in that behavior while aware that using marijuana is inconsistent with holding national security eligibility. The Board has “long held that applicants who use marijuana after having been placed on notice of the security significance of such conduct may be lacking in the judgment and reliability expected of those with access to classified information.” ISCR Case No. 20-01772 at 3 (App. Bd. Sep. 14, 2021). The Judge’s conclusion that Applicant’s continued marijuana use after repeated acknowledgments of the security implications thereof casts doubt on his current reliability, trustworthiness, and judgment is well-supported by Appeal Board precedent and sustainable.

### **Conclusion**

Applicant has not established that the Judge’s conclusions were arbitrary, capricious, or contrary to law. Our review of the record reflects that the Judge examined the relevant evidence and articulated a satisfactory and sustainable explanation for the decision. “The general standard is that a clearance may be granted only when ‘clearly consistent with the interests of the national security.’” *Dept. of Navy v. Egan*, 484 U.S. 518, 528 (1988). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

### **Order**

The decision in ISCR Case No. 23-02888 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski  
Administrative Judge  
Chair, Appeal Board

Signed: Allison Marie

Allison Marie  
Administrative Judge  
Member, Appeal Board

Signed: Jennifer I. Goldstein

Jennifer I. Goldstein  
Administrative Judge  
Member, Appeal Board