



**DEPARTMENT OF DEFENSE
 DEFENSE LEGAL SERVICES AGENCY
 DEFENSE OFFICE OF HEARINGS AND APPEALS
 APPEAL BOARD
 POST OFFICE BOX 3656
 ARLINGTON, VIRGINIA 22203
 (703) 696-4759**

Date: February 9, 2026

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 In the matter of:)
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 Applicant for Security Clearance)
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ISCR Case No. 24-01749

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Grant Couch, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On January 28, 2025, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline H (Drug Involvement and Substance Misuse), Guideline I (Psychological Conditions), Guideline J (Criminal Conduct), and Guideline E (Personal Conduct) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On December 16, 2025, Defense Office of Hearings and Appeals Administrative Judge John Bayard Glendon denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Judge’s Findings of Fact and Analysis

Applicant, in his mid-40s, has been employed by DoD contractors since 2009 and was previously granted eligibility for a public trust position. In 2023, he submitted a security clearance application seeking national security eligibility.

Applicant has used opioids to address back pain on and off since about 2001. Beginning in about 2011, he was prescribed and used Norco with hydrocodone, a highly addictive opioid. In 2014, in preparation for a surgical procedure, Applicant was prescribed Xanax for anxiety and Norco for pain management. In late 2015, Applicant began to experience side effects and wanted to stop using the medications. His doctor advised that discontinuing them would require detoxification, and Applicant admitted himself into a hospital inpatient treatment program, where he remained for two weeks. Applicant testified that he may have been diagnosed with Opioid Use Disorder (OUD) during the program. He resumed using Norco again in August 2015 and continued through at least April 2016.

On October 31, 2022, Applicant was admitted to the hospital again. He testified that, in anticipation of his recently deceased sister's birthday and due to some minor work-related back pain, he took an old prescription found in his medicine cabinet but did not like the way it made him feel and went to the hospital. He asserted that, prior to this incident, it had been months or possibly years since he had last taken hydrocodone or Xanax.

Hospital records, however, reflect that Applicant's "chief complaint" upon admission was opiate and benzodiazepine dependence,¹ and one doctor noted that Applicant was "admitted for addiction problem." Decision at 3 (quoting Government Exhibit (GE) 4 at 1). Another doctor noted that Applicant reported taking five to ten Norco per day for the past several months, occasionally using Xanax during that period, and having last used both prescriptions the day of his admission, with Applicant obtaining the Norco from a friend. The doctor further noted that Applicant's "history is somewhat vague and evasive as he will tell different providers conflicting versions of substance use." *Id.* (quoting GE 4 at 5). Applicant was diagnosed with severe OUD, which he was "resistant to accept," and mild Benzodiazepine Use Disorder. *Id.* at 4 (quoting GE 4 at 8). He was discharged from the hospital's Substance Use Recovery Unit on November 3, 2022, and referred for follow-up care with the Unit's Intensive Outpatient Program, which he declined. Applicant was also "strongly encouraged to remain abstinent from alcohol and from all other drugs of addiction, and to cultivate active and ongoing involvement in a sober support network that supports changing addictive behaviors and mindset." *Id.* (quoting GE 4 at 19).

Applicant disputed the accuracy of the foregoing hospital records. He claimed that one doctor falsely accused him of obtaining drugs illegally and that he was treated by a junior doctor who diagnosed Applicant with high blood pressure and discharged him with a prescription for that condition. The Judge found that the 2022 hospital records did not support Applicant's explanation.

In July 2024, Applicant was evaluated by a licensed clinical psychologist in conjunction with his national security eligibility adjudication. During the interview, Applicant denied ever attending rehabilitation or recovery programs, averred that he was admitted to the hospital in 2022 for "a medication side effect," and repeated that his 2022 discharge diagnosis was "high blood pressure." GE 3 at 4. Regarding his use of medications, the psychologist noted Applicant's disclosures that he was currently prescribed Xanax and "on occasion" takes more than prescribed, and that, although he denied issues with using opiates outside of the recommended dosages, he

¹ Xanax is a specific type of benzodiazepine.

acknowledged that he has taken an “extra here and there.” GE 3 at 4. At hearing, Applicant testified that he did not recall making the statements about taking extra medication during his evaluation.

The psychologist reaffirmed Applicant’s diagnosis of severe OUD and diagnosed him additionally with severe Sedative, Hypnotic, or Anxiolytic Use Disorder. The psychologist opined that Applicant’s “current symptoms appear moderate to severe in the sense that he has taken many efforts to deny, avoid disclosure and continue his substance use” and that his ability “to generally function while under the influence of substances . . . raises more concerns that there is a dependence on these substances which could cause significant impact of his judgment, reliability, or trustworthiness concerning classified information.” GE 3 at 8.

Based on the foregoing, the SOR alleged concerns under Guideline H about Applicant’s 2015, 2022, and 2024 diagnoses, his declining outpatient treatment after the 2022 hospitalization, his use of unprescribed Norco, and his misuse of Xanax and hydrocodone. Additionally, the diagnoses and prognosis from Applicant’s 2024 evaluation were cross-alleged under Guideline I, his use of unprescribed Norco was cross-alleged under Guideline J, and his denial of having ever been hospitalized or participating in drug treatment during the 2024 evaluation was alleged under Guideline E. In response to the SOR, Applicant acknowledged that he pursued adjustments to his pain management plan through voluntary hospitalization in 2015 and that he was evaluated by a psychologist in 2024, but denied all other aspects of the allegations, including past diagnoses, misuse of medications, and intentionally withholding material information during the 2024 evaluation.

With respect to the 2022 hospitalization, Applicant relied on his assertions that he was falsely accused of illegally obtaining prescription Norco and was subsequently diagnosed and treated for only high blood pressure to further deny that he falsified information about the hospitalization during his 2024 evaluation. The Judge found Applicant’s explanation inconsistent with and less credible than the 2022 hospital records. Resolving all allegations unfavorably, the Judge opined that the facts of the case demonstrated that Applicant failed “to fully disclose the facts of his drug use and treatment throughout the security clearance application and adjudication process,” and that Applicant’s failure to treat the process seriously and approach it honestly undercut his trustworthiness. Decision at 15.

Discussion

On appeal, Applicant’s Counsel argues that the Judge was not an impartial decisionmaker and that he failed to consider all relevant evidence and properly apply the mitigating conditions, thereby violating the provisions in Executive Order 10865 and the Directive. For the following reasons, Counsel’s arguments are unpersuasive, and we affirm the unfavorable decision.

Challenge to Judge’s Impartiality

Counsel’s primary challenge on appeal stems from the Judge’s decision to briefly recess the hearing while Counsel was delivering his closing argument. Counsel argues that the Judge’s conduct “prevent[ed] full presentation of mitigation evidence,” “signaled that he no longer wished to hear further argument,” and “demonstrated that he was no longer willing to be persuaded by mitigation evidence.” Appeal Brief at 5, 6, 9. None of Counsel’s arguments are persuasive.

First, the argument that the interruption somehow denied Applicant the opportunity to present mitigating evidence is baseless. A closing argument does not constitute record evidence, and the record reflects that Applicant's legitimate opportunities to present mitigating evidence – i.e., through documentary evidence and hearing testimony – were entirely unimpeded.

Counsel's next argument – that the Judge signaled that he no longer wished to hear further argument – runs contrary to the record. Rather, the transcript reflects that, upon realizing that he needed to reschedule a personal phone call that was being overtaken by the hearing, the Judge apologized for the interruption and inconvenience, confirmed that Counsel needed additional time to complete his closing argument, and convened a five-minute break. Immediately when the hearing resumed, the Judge twice apologized directly to Counsel and expressed his hope that Counsel could pick up where he left off. The transcript reflects that Counsel did just that and completed presentation of his closing argument without further interruption.

Finally, other than his general disagreement with the unfavorable outcome of Applicant's case, Counsel points to nothing in the record to support that the Judge's recess signaled he had already reached a decision and was closed to further argument. An appealing party has a heavy burden of demonstrating conduct by a judge that deprived the hearing or decision of fairness and impartiality. *See* ISCR Case No. 94-0282, 1995 WL 272062 at *3 (App. Bd. Feb. 21, 1995) (citations omitted). Counsel's arguments fall far short of that heavy burden. Having reviewed the entire record, and particularly the transcript, we find nothing to support that the Judge impeded Applicant's ability to develop his case and present evidence of mitigation, or that would likely persuade a reasonable person that the Judge was lacking in the requisite impartiality.

Challenges to Mitigation Analyses

Counsel also notes a challenge to the Judge's mitigation analyses; however, he fails to subsequently identify any mitigating condition under any Guideline that was erroneously applied. Instead, Counsel argues generally that the Judge relied too heavily on the 2022 hospitalization records and the 2024 psychological evaluation, and that the Judge should have given greater weight to Applicant's explanations and his prescription records from a pain management clinic and pharmacy. Such a disagreement with the Judge's weighing of the evidence is not sufficient to demonstrate that he weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. *See* ISCR Case No. 04-08975, 2006 WL 2725032 at *1 (App. Bd. Aug. 4, 2006).

It is well-established that “[d]etermining the weight and credibility of the evidence is the special province of the trier of fact.” *Inwood Labs. v. Ives Labs.*, 456 U.S. 844, 856 (1982). While the Judge had to consider Applicant's testimony and other evidence explaining the concerns alleged in the SOR, he was not bound by it. Rather, a judge must weigh the evidence and resolve conflicts based upon a careful evaluation of factors such as the evidence's “comparative reliability, plausibility and ultimate truthfulness.” ISCR Case No. 05-06723, 2007 WL 4379274 at *4 (App. Bd. Nov. 14, 2007). Here, when weighed against the hospitalization records and psychological evaluation, the Judge reasonably found Applicant's explanations were less credible. We find no reason not to give deference to the Judge's weighing of the evidence.

Conclusion

Applicant has not established that the Judge's adverse decision was arbitrary, capricious, or contrary to law. Our review of the record confirms that the Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, which is sustainable on this record. "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. 24-01749 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Allison Marie

Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board