DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 17-03898
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: *Pro se*

05/28/2019

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Decision

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COACHER, Robert E., Administrative Judge:

Applicant mitigated the Government's security concerns under Guideline E, personal conduct. Applicant's eligibility for a security clearance is granted

Statement of the Case

On December 28, 2017, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline E, personal conduct. DOD CAF acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines effective June 8, 2017 (AG).

On January 17, 2018, and February 5, 2018, Applicant answered the SOR and requested a hearing. The case was assigned to another administrative judge (AJ1) on August 27, 2018. The Defense Office of Hearings and Appeals (DOHA) issued a notice

of hearing that same day, and the hearing was convened as scheduled on September 7, 2018. The Government offered exhibits (GE) 1 through 5, which were admitted without objection. Applicant testified, called a witness, and offered exhibits (AE) A through C, which were admitted without objection. The record remained open until September 21, 2018, to allow Applicant to submit additional evidence. He submitted one additional document that was marked by the judge as Post-hearing Exhibit A and admitted without objection. DOHA received the hearing transcript (Tr1.) on September 17, 2018.

On October 26, 2018, AJ1 issued a decision denying Applicant's request for a security clearance. Applicant appealed that decision to the DOHA Appeal Board (Appeal Board) and on March 6, 2019, the Appeal Board issued a decision remanding the case to another judge for a new hearing.

The remanded case was assigned to me on March 7, 2019. DOHA issued a notice of hearing on March 29, 2019, and the hearing was convened as scheduled on April 11, 2019. By email dated April 4, 2019, I informed both parties that I had read and reviewed all the testimony and exhibits from the first hearing and that I intended to consider that evidence for this hearing. I informed them that only new evidence should be offered at the remand hearing, although I further stated that Applicant would have the opportunity to testify again if he desired.[1]

At the remand hearing, the Government called one witness and did not offer any documents. Applicant testified, called two witnesses, but did not offer any exhibits at the time. The record remained open until April 26, 2019, to allow Applicant to submit additional evidence. He submitted one additional document that was marked as remand exhibit (RAE) A and admitted without objection. An email string from Applicant showing his consent on closing the record is reflected by remand hearing exhibit (RHE) I. The record was then closed. DOHA received the hearing transcript (Tr2.) on April 26, 2019.

Procedural Issue

I amended SOR ¶ 1.b to reflect the date of "August 16, 2016" and SOR ¶ 1.c to reflect the date of "August 17, 2016" to conform to the evidence produced during the remand hearing.[2]

Findings of Fact

Applicant admitted the SOR allegations, but provided explanations, which essentially denied the underlying conduct of each allegation. After a thorough and careful review of all the pleadings and evidence, I make the following findings of fact.

[1] Remand Hearing Exhibit (RHE) I (April 4, 2019 email to Applicant and Department Counsel (p.4-5)).

[2] Directive (enclosure 3 at E3.1.17)

Applicant is 38 years old. He worked for a government contractor (GC3) employer most recently beginning in October 2016 until he lost his clearance. Previously, he worked for a different government contractor (GC1) from September 2015 to August 2016. From January 2015 to September 2015, he worked for a predecessor government contractor (GC2). GC1 took over the contract GC2 had with the Air Force (AF) and Applicant was retained as an employee for GC1. The allegations in this case arise from his employment with GC1. He is married with three children. He has a master's degree.[3]

Applicant is a medically retired warrant officer from the U.S. Army. He served for 13 years. He was retired because of injuries sustained while deployed to Afghanistan. He received the Army Commendation Medal and two Air Medals for his service. He received a 90 percent disability rating from the Department of Veterans Affairs (VA) for his service-connected injuries.[4]

The SOR alleged: (1) that on June 9, 2016, Applicant replied to an email stating "comply and adjust fire" after being instructed to come to work and leave work on time; (2) that on August 16, 2016, Applicant made a statement regarding "retaliation" after finishing a discussion with his program manager (PM); (3) that on August 17, 2016, Applicant stated "misquoting me is dangerous" after walking out of a meeting with his PM; (4) that on August 18, 2016, Applicant stated to a coworker "prepare to go to war in five minutes" that led the coworker to report this statement and Applicant's behavior to command officials; (5) that in August 2016, Applicant was terminated from his employment for erratic behavior.

June 9, 2016 Comment. The factual basis for this allegation was stated in a Joint Personnel Adjudication System (JPAS) report written by GC1's security manager, who had no first-hand knowledge of any of the allegations, but received input from Applicant's PM who was his first-level supervisor. AF personnel had become concerned with Applicant's hours of work schedule. On the morning of June 9, 2016, the AF contracting representative (CR) sent Applicant an email setting forth the expectation of Applicant regarding his work schedule.[5] At 1:44 pm, the same day, Applicant replied to the CR's email and copied his PM along with several other people. The text of the email was:

> After writing and deleting a response about seven times I will just say, thanks for the candid feedback. It is refreshing and appreciate [sic] and if you know anything about me it is that **I will comply and adjust fire** (emphasis added). There are greater issues at hand though that will be

[3] Tr1. 6; Tr2. 6; GE 1.

[4] Tr2. 144-147; GE 3 (personal subject interview (PSI), October 24, 2016).

[5] Under this type of contract with the AF, GC1 employees and AF government employees (military and civilian) worked side by side. The AF was the customer of GC1. While Applicant's direct boss was the PM working for GC1, the customer's input was always considered. This explains why the CR, an AF employee, would be directing Applicant's actions in this instance.

> addressed in the immediate future, you will be kept in the loop. Thanks again.

Ten minutes later the CR sent Applicant a two word reply stating, "Copy all." This phrase commonly means message received. Applicant's PM testified that he knew Applicant and the CR met and talked after this email exchange, but he was not present. Thereafter, the following email exchange took place. First from Applicant to the CR at 5:00 pm:

> Thanks so much for the conversation this afternoon regarding the series of email, again I apologize for providing a confusing response that clearly did not covey [sic] the message I intended it to. I value your candid tone, and will comply with your recommendations.

The CR responded to this email from Applicant at 5:02 stating:

> Not an issue [Applicant]. Please continue to communicate clearly and continuously as u [sic] did in our conversation and with different elements of your surroundings and all will stay peachey [sic].[6]

Applicant's SOR answer explained that his use of the "comply and adjust fire" comment was simply stating in commonly understood and commonly used military language that he would comply and adjust his course of action in reference to his work hours. He also testified that his comment was taken out of context. Applicant's PM testified that he was "alarmed" by Applicant's email using this comment. He admitted he was not alarmed by the comment itself, but based upon his knowledge of Applicant (he had supervised Applicant from June 2015 to August 2016), the PM felt there was an underlying menacing element of the email directed toward the CR. He believed it was an implied threat. The PM met with Applicant after the emails on June 9, 2016, for the purpose of reiterating that Applicant had to stick to his established work schedule without deviation, unless so authorized. He claims he documented this discussion with Applicant, but no documentation was produced for the hearing. No disciplinary action was taken against Applicant at that time for the email comment.[7]

August 16, 2016 Comment. The factual basis for this allegation was also from the security manager's JPAS report. On this date Applicant, his PM, and a representative from Human Resources (HR) met (HR joined the meeting via telephonic contact) and Applicant was issued a Disciplinary Notice (Formal Warning). The Notice was issued to address Applicant's work schedule and management's concern that he was not complying with previously issued instructions. After he was issued the Notice, Applicant was allowed to provide comments in the body of the letter, which he did. His comments were as follows:

[6] Tr2. 31, 82; GE 2; AE A.

[7] Tr1. 38; Tr2. 30-31, 35-36, 38-39, 76-77; AE A; SOR Answer.

> The context and representation of events is heavily bias [sic] to one side. While I will comply entirely with the recommendations and action of this "Disciplinary Notice," I have an entirely different perspective that brings to light the motivation behind these events. The **retaliation** [emphasis added] and level of harassment endured by me is being documented and substantiated with support from to [sic] leaders in the organization I support.[8]

In his SOR answer, Applicant explained that the use of the word "retaliation" referred to his belief that he was being retaliated against because he made whistleblower complaints (see discussion below on whistleblowing allegation) against two AF employees (GS1 and GS2) for time-card abuse. He did not mean that he was going to retaliate against anyone. Applicant's PM testified that other than Applicant referencing "retaliation" in his comment to the Disciplinary Notice, there was no other reference to retaliation. The PM knew that Applicant was using this in the context of his perceived whistleblower activity and he knew the comment was not a threat.[9]

August 17, 2016 Comment. The factual basis for this allegation was also from the security manager's JPAS report. On this date another meeting was held with Applicant, his PM, and HR (participating through a video teleconference). The purpose of this meeting was to discuss Applicant's allegation that he faced reprisal because of his whistleblower activities. The subject came up at the meeting held the day before, but HR wanted this topic deferred and discussed separately. During the meeting, Applicant stated his belief that the recent complaints about his work hours and adhering to his work schedule were coming from GS1 and GS2 and were in reprisal for his reporting their timecard abuse several months before. HR indicated the allegations would be investigated. While Applicant and his PM were leaving the room, both describe a conversation they had in very different ways. Applicant stated in his SOR Answer and during his testimony that the statement he made, "misquoting me right now is dangerous," was referring to it being dangerous for the Applicant. His testimony explained his meaning as follows:

> So, after I walked out, [PM] had said that I made a comment "I have legal counsel in waiting," which was not a true statement. And I told him misquoting me is dangerous right now because this is going to come back and harm me if you report stuff like that. That's the context that that was given in, and it was a very polite, respectful conversation.

The PM testified that he felt the words "misquoting me right now is dangerous" were a direct threat towards him at that moment based upon Applicant's body language and

[8] Tr2. 82; GE 2; AE B.

[9] Tr1. 50-52; Tr2. 78-79; SOR Answer.

overall demeanor. He described Applicant's as having clenched fists and he believed Applicant was trying to stare him down and intimidate him.[10]

The PM testified that after leaving the meeting with Applicant he went back to his office and thought about what just transpired. He called his Chief Operating Officer (COO) and told him that Applicant had just threatened him and that he was "over this" and that he "did not have to put up with this." He wanted to fire Applicant. The COO agreed with the PM, and with HR coordination the decision was made to fire Applicant the next day, August 18, 2016. The PM stated he memorialized his conversation with the COO in an email, but that email was not offered into evidence. The PM told the AF, through the CR, of the decision to terminate Applicant. Later that evening, the PM received a call from the AF colonel in charge. They discussed implementation of the plan to notify and terminate Applicant the next day.[11]

August 18, 2016 Comment. The factual basis for this allegation was also from the security manager's JPAS report. On this day the PM received a call from the AF colonel that an employee reported that Applicant was behaving erratically at his work site (erratic behavior was not explained) and that he made a strange comment to the effect, "prepare to go to war in five minutes." There is no evidence showing that an investigation was conducted or that witnesses to the alleged event were interviewed. The AF Colonel wanted the timing of Applicant's termination moved up. At this point, Applicant had not been notified of his impending termination. With this new information, the PM called his COO and discussed moving up the time they would notify Applicant. They made the decision to do it immediately rather than wait until the afternoon as originally planned. The PM met with Applicant and told him he was terminated and to turn over his base access cards. Applicant complied and asked the reason for the termination. The PM told him he would receive a formal letter in the following days. The follow-up termination letter was not offered into evidence. Applicant complied with the instructions, was escorted to his car, and peacefully left the area.[12]

The PM testified that he did not know who the employee was that notified the colonel about Applicant's behavior and statement that day. He never did find out who reported this information. He memorialized the day's actions in a memo he sent to HR the same day.[13]

Applicant explained a different context for the "prepare to go to war" comment. In his SOR Answer he stated that he made the comment in reference to the action of the cleaning woman who came through his work section. He claimed that the cleaning woman was clumsy, often knocked things off desks, tangled up the vacuum cord, ran

[10] Tr1. 54-55; Tr2. 54-58, 79-80; SOR Answer.
[11] Tr2. 59-63; GE 4.

[12] Tr2. 64-66, 70-71; GE 2, 4.

[13] Tr2. 67, 71; GE 4.

into people, and was generally chaotic when she worked the area. This led Applicant and others to note her impeding arrival by saying words to the effect, "prepare for battle, she will be here in five minutes." Applicant reiterated this context during his testimony and added that all these comments were said with a degree of levity as an inside joke amongst coworkers. He believes the employee who reported him was GS1.[14]

Applicant's Claim of Whistleblower Reprisal. Applicant claims that the complaints about his comments and his termination were the result of reprisal by GS1 and GS2 because he reported time-card abuse and they were both disciplined as a result. GS1 was an AF employee whose duties were parallel to Applicant's duties on the contractor side. GS2 was GS1's supervisor and was responsible for monitoring GS1's time-card activities. Applicant believed GS1 and GS 2 were friends. He claims that he noticed GS1, who was the time keeper for that duty section, was not properly accounting for her time. In March 2016, he notified GS1's branch chief about the possible fraud and was told his anonymity would be protected. Applicant claimed that the next day he was treated differently by both GS1 and GS2. He believed they became rude and belligerent in their conversations with him. He also believed that GS2 was responsible for demanding that Applicant change his work schedule to one that was less flexible for him. Applicant also claims that both GS1 and GS2 were disciplined for their actions regarding time-card fraud. He believed they were counseled by the division deputy (a GS-15 employee) and their schedules were adjusted. There was no documentation corroborating Applicant's version of these events (other than his own notes, which he provided after his first hearing). He claimed he could provide supporting witness statements, but he did not.[15]

Applicant's PM testified that his knowledge that complaints were made against GS1 and GS2 for time card abuse came from Applicant. He does not know if they were disciplined for it. He knew GS1, but he had never met GS 2. He first became aware of Applicant's reprisal concerns on June 9, 2016. He never received any complaints from GS1 or GS2 about Applicant. The PM testified that the several discussions (from 4 to 6) he had with Applicant before August 2016 were strictly about him adhering to his established work schedule. He gave examples of when Applicant altered the schedule on his own without permission.[16]

Character Evidence. A witness (W1) who has known Applicant for 15 years testified for him at both hearings. He hired Applicant to work for GC2 in January 2015 and was his supervisor. Applicant was in the same job position then as he would be later when working for GC1. W1 never received any complaints about Applicant. He stated that the division deputy for GC1 loved his work. After Applicant was fired in August 2016, he came to work at GC3 where W1 was then working, which is also

[14] Tr1. 56-60, 69; SOR Answer

[15] Tr1. 22-24, 39-40, 42; GE 3; App. Post-Hearing1 Exh. A

[16] Tr2. 27-30, 72-74; GE 5 (also AE B).

located on the Air Force Base where GC1 was located. Applicant has never had any issues while working at GC3. W1 has never known Applicant to become violent towards a coworker or do anything in the workplace that would cause a safety concern for other employees. He is aware of the allegations against Applicant. He recommends granting of his clearance because he believes Applicant presents no security risk based upon his overall good character.[17]

A second witness (W2) testified at Applicant's remand hearing. He has known Applicant for two to three years. He hired Applicant to work for GC3 located on the same Air Force Base as where GC1 was located. Applicant worked there until losing his clearance. W2 testified that he knew about Applicant's firing at GC1. Applicant told him about it and W2 talked to several people working for GS1, including the division deputy about Applicant. He hired Applicant with full knowledge of the events that took place at GC1. W2 said the division deputy at GC1 spoke highly of Applicant and wished he was still there. While working for GC3, Applicant was an outstanding employee. W2 wanted to promote him. W2 would hire him back if he gained his clearance. W2 received no complaints about Applicant concerning his behavior or allegations of verbal abuse toward other employees. He recommends that Applicant be granted a clearance.[18]

Applicant offered letters of support from his former division deputy and two coworkers at GS1. The division deputy stated Applicant worked for her as an administrative specialist and that he was reliable and honest. She believes he is a man of "valor and dedicated to our country." She opined that he is "worthy of a security clearance . . . ." His two coworkers from GC1 worked with him on a daily basis. They found him to be trustworthy and honest. They were both aware of the difficult circumstances Applicant faced in dealing with his work environment. Even with those challenges, both coworkers stated that Applicant remained dedicated to his job and was professional. Both recommend that he be granted a clearance.[19]

Applicant also offered letters of support from his most recent supervisor at GC3 and two coworkers from there. His supervisor described Applicant as "extremely reliable and forthright" and that "[h]e has a passion for doing the right thing first." Applicant's two coworkers describe him as a dedicated, hardworking man of integrity. He was known for his respectful, cordial, and approachable interactions with coworkers and supervisors. One coworker who worked with Applicant for 18 months stated: "He has always handled himself in a very professional and courteous manner in all matters of business dealings, personal conversations and interactions at all times."[20]

[17] Tr1. 78-79, 83-86; Tr2 118-120, 122-123, 125-126.

[18] Tr2. 130-140.

[19] AE C; RAE A.

[20] AE C.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a careful weighing of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion to obtain a favorable security decision."

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline E, Personal Conduct

AG ¶ 15 expresses the personal conduct security concern:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying in this case. The following disqualifying condition is potentially applicable:

> (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of:
>
> (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or other government protected information:
>
> (2) disruptive, violent, or other inappropriate behavior in the workplace;
>
> (3) a pattern of dishonesty or rule violations; and
>
> (4) evidence of significant misuse of Government or other employer's time or resources.

The allegations in the SOR consist of four statements by Applicant and a fifth allegation stating he was terminated as a result of the his statements and related action. The fifth allegation is a consequence of the four previous allegations and does not, on its own, provide a basis for disqualification. Applicant's email using the phase "comply and adjust fire" in the context of how it was used does not support a basis for disqualification. The evidence indicates Applicant's use of "retaliation" in his reply to the Disciplinary Notice was in the context of his reference to his whistleblowing activities and not as a threat to others. The evidence does not establish that his use of the term amounted to disruptive, violent, or inappropriate behavior, or that it established a pattern

of rule violations. Concerning Applicant's comment "misquoting me now is dangerous," the evidence is equivocal. Clearly the PM believed the comment was an implied threat to him. Applicant, on the other hand, provided a context for the statement which takes it out of the realm of a threat, but at best puts it as an ill-advised statement at the time. Applying the substantial evidence standard, this statement amounted to inappropriate behavior by the Applicant. AG 16(d)(2) applies to this allegation. I find that the evidence is insufficient to establish a disqualifying condition related to Applicant's statement of "prepare to go to war in five minutes." The Government's evidence is based upon an unknown declarant who apparently made the report to some level of supervision which found its way to Applicant's PM. No investigation was conducted and no corroborating witnesses were offered. The PM never found out who made the statement. Applicant testified about the statement and the context in which it was made, which was unrefuted. His explanation, in proper context, makes his statement benign and does not amount to inappropriate conduct or any type of rules violation.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. I have considered all of the mitigating conditions under AG ¶ 17 and found the following relevant:

> (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and
>
> (f) the information was unsubstantiated or from a source of questionable reliability.

Applicant's statement (SOR ¶1.c) to the PM occurred in August 2016. Since that time, Applicant was hired by another government contractor (GC3) at the same location without any similar incidents occurring. His recent supervisor and coworkers specifically noted that Applicant is a great employee. Even his former coworkers noted that he was dealing with a difficult situation when he worked at GC1. AG ¶ 17(c) applies. Although, I determined that SOR ¶¶ 1.a, 1.b, and 1.d were not established by the evidence, I also find that they would be mitigated under 17(c). Likewise, AG ¶ 17(f) applies to SOR ¶ 1.d.

Whistleblower Reprisal Issue

Contractor employees are protected from reprisal for reporting any DOD gross waste of funds, or a violation of law, rule regulation related to a DOD contract.[21] Applicant claims he reported time card abuse or fraud by a DOD employee (GS1) and that as a result GS1 and GS2, her supervisor, were disciplined. He further claims that because he made these disclosures and the employees were disciplined, they set out to retaliate against him by complaining to the PM and by treating him differently after his

[21] *See* 10 U.S.C. § 2409; 50 U.S.C. § 3341

disclosure. The evidence is sufficient to support that Applicant made protected disclosures. The PM gave evidence, through his testimony and his written memos, establishing the basis for his actions against Applicant. According to the PM, he acted because Applicant was not following the directive to maintain a fixed working schedule. None of his actions were because Applicant made a protected disclosure. The evidence is sufficient to support that actions taken against Applicant were not done based upon his protected disclosures. There was no reprisal against Applicant based upon his protected activities.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

> (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's military service, his VA disability, his supervisors' statements, particularly the statement from his former division deputy from GC1 and his supervisor from GC3, as well as the statement from coworkers from both GC1 and GC3. I also considered the time elapsed since his difficulties working at GC1 and the lack of evidence of any similar situations. Applicant provided sufficient evidence to mitigate the security concerns.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude the security concerns under the Guideline E, personal conduct, were either not established or were mitigated.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline E: FOR APPLICANT

Subparagraphs 1.a – 1.e: Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

_____

Robert E. Coacher
Administrative Judge