



DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 18-01062
)
Applicant for Security Clearance)

Appearances

For Government: Ross Hyams, Esq., Department Counsel

For Applicant: *Pro se*
09/12/2019

Decision

NOEL, Nichole L., Administrative Judge:

Applicant contests the Department of Defense’s (DOD) intent to deny his eligibility for a security clearance to work in the defense industry. As a result of a 2017 psychological evaluation ordered by the DOD Consolidated Adjudications Facility (CAF), a licensed clinical psychologist diagnosed Applicant with alcohol use disorder, stimulant use disorder, and delusional disorder in addition to identifying psychological characteristics that make Applicant a security risk. An independent evaluation procured by Applicant also resulted in a negative assessment of Applicant’s ongoing security worthiness. Clearance is denied.

Statement of the Case

On April 30, 2018, the DOD issued a Statement of Reasons (SOR) detailing security concerns under the psychological conditions, personal conduct, alcohol consumption, and drug involvement and substance misuse guidelines. This action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry*, signed by President Eisenhower on February 20, 1960, as amended; as well as DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program*, dated January 2, 1992, as amended (Directive), and the *Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, implemented on June 8, 2017. DOD adjudicators were unable to find that it is clearly consistent with

the national interest to grant Applicant's security clearance and recommended that the case be submitted to a Defense Office of Hearings and Appeals (DOHA) administrative judge for a determination whether to revoke his security clearance.

Applicant timely answered the SOR and requested a hearing. At the hearing, convened on November 29, 2018, I admitted Government's Exhibits (GE) 1 through 7, and Applicant's Exhibits (AE) A through K, without objection. After the hearing, the Government submitted curriculum vitae (CV) for the psychologist who completed Applicant's 2017 psychological evaluation. (GE 5.) The Applicant timely submitted AE L through O, which are also admitted without objection. (AE M.) DOHA received the transcript (Tr.) on December 7, 2018.

On April 30, 2019, I issued a Decision revoking Applicant's continued access to classified information. Applicant appealed the Decision and on August 13, 2019, the Appeal Board remanded the Decision, determining that Applicant made a *prima facie* showing that documents may be missing from the record. The Appeal Board ordered that I review the record to determine if any documents were missing from the record and if so, collect them, consider them, and issue a new decision consistent with the Directive.

A review of the hearing record and the post-hearing submissions revealed that four character letters submitted by the Applicant on December 22, 2018 were inadvertently excluded from the record. Department Counsel reviewed the letters and did not object to their admission to the record as AE P through S. The correspondence related to the Remand Order are appended to the record as Appellate Exhibit (APP. EX.) I. The final exhibit list, certified as complete and accurate by the parties, is appended to the hearing record as APP. EX. II.

In accordance with the Remand Order, I have reviewed and considered the contents of the complete evidentiary record, and have clarified my findings of fact and whole-person analysis as appropriate.

Findings of Fact

Applicant, 51, has worked for his employer, a federal contracting company, since 2008. He served in the Army from July 1985 to July 1989, and again from October 1990 to July 1992. Applicant earned several decorations, medals, badges, and service ribbons. He received honorable discharges for both enlistments. Applicant has held a security clearance at various times since 1985. The SOR arises from an August 2013 incident report that Applicant's employer filed in the Joint Personnel Adjudication System (JPAS) raising concerns about Applicant's mental health. (Tr. 20-23, 30-33; GE 4; AE B.)

The August 2013 Security Report

Between September 2012 and May 2013, Applicant worked on what he described as a "special access program (SAP) in a high security location" in State 1. In

late 2012, he reported possible elicitation attempts to his supervisor. Unsatisfied with how his former supervisor handled his concerns, Applicant filed a formal report regarding the attempted elicitation with his employer's security department in August 2013. (Tr. 20-23, 30-33; GE 4.)

According to a memorandum prepared by Applicant's employer, dated August 15, 2013, Applicant reported possible elicitation attempts he experienced while he was living and working in State 1. Although Applicant did not believe the facility in State 1 was in danger, he believed that he was being targeted by unidentified people. During the nine months he worked in State 1, he believed unidentified individuals were attempting to collect his personal information electronically and by burglarizing and bugging his home. He reported problems with his neighbors, including their inexplicable knowledge of details about his personal and professional life. He claimed that his neighbors repeatedly accused him of sex crimes and that he believed the police followed him. When he moved to State 2 in June 2013, he believed that his neighbors already knew his name and some information about him. Applicant also reported difficulty sleeping and people trying to "break him down." (GE 4.)

Because of Applicant's report, the security office filed an incident report in JPAS on August 21, 2013, indicating that Applicant was exhibiting paranoid behavior. The report noted that Applicant did not present a heightened risk of disruptive or violent behavior. On August 22, 2013, Applicant met with two members of human resources and a security manager. The company representatives gave Applicant a mandatory referral to the Employee Assistance Program (EAP). In a memorandum memorializing that meeting, Applicant's employer noted the conclusions from the EAP referral, which indicated that Applicant was not a risk to himself or others. The memorandum also noted that Applicant complied with the employer's requirements and the referral was closed. Since August 2013, Applicant's employer has not filed any other incident reports concerning Applicant exhibiting paranoid behavior or expressing paranoid beliefs at work. In 2017, Applicant received a monetary performance award and in 2018, his employer recognized him for ten years of service. (GE 3-4, AE D-E.)

The 2017 Psychological Evaluation

In December 2017, four years after the JPAS incident report, Applicant submitted to a psychological evaluation as requested by the DOD CAF. A licensed clinical psychologist (LCP) contracted by DOD CAF performed the evaluation. In developing the conclusions presented in the 2017 evaluation report, the psychologist relied on a review of DOD Manual 5200.02, a clinical interview with Applicant, and the review of unspecified documents. Applicant also completed a personality assessment inventory (PAI). However, the psychologist was unable to interpret the results because Applicant answered the questions in a manner suggesting that he was trying to present himself in an uncharacteristically positive way. The LCP summarized her findings in the 2017 evaluation report:

[Applicant] has a history of stimulant abuse (cocaine, methamphetamine) and paranoid ideation that may be related to one another. This subject

failed to disclose and sometimes denied documented problems with paranoia, mental health treatment, and substance abuse when asked directly about relevant questions. However, when confronted with this information, he acknowledged his history and gave elaborate explanations about both his problems and his failure to disclose them. It is not clear that [Applicant] continues to abuse stimulants or have floridly psychotic paranoid beliefs, but there is cause for concern in continuing beliefs that he is being monitored by the government and in his obtaining stimulants for the treatment of Attention Deficit Hyperactivity Disorder (ADHD) relatively late in life, after years of abuse of illegal stimulants. [Applicant's] recurrent substance abuse, paranoid ideation, and engagement in deception are each psychological conditions that are sufficient on their own to impair his judgment, reliability, and trustworthiness, with their joint occurrence increasing the level of risk associated with granting [Applicant] a security clearance. (GE 5.)

The LCP diagnosed three psychological disorders as adversely affecting Applicant's ongoing security worthiness:

Diagnosis 1: History of Alcohol Use Disorder, severity and remission status unknown

The LCP based this diagnosis on treatment between October 2004 and January 2005 for substance and alcohol abuse. The report does not delve further into the issue and contains no information regarding Applicant's alcohol consumption habits in the past or at the time of the evaluation.

At the hearing, Applicant testified that he consumes alcohol occasionally and never to the point of intoxication. His only documented incident of alcohol-related misconduct is a 1999 charge for having an open container of alcohol in public. (GE 5.)

Diagnosis 2: Stimulant Use Disorder, severity and remission status unknown

The LCP noted that in the clinical interview, Applicant described his history of drug abuse in general terms. He admitted using marijuana in high school, cocaine occasionally in the 1990s, and amphetamines on two occasions to help him stay awake during shift work. Citing an unspecified medical record, the psychologist determined that Applicant used cocaine and methamphetamine until 1997. The psychologist does not report the date Applicant began using illegal drugs or the frequency of use. In a June 2010 subject interview from a previous security clearance investigation, Applicant admitted that he began using methamphetamine daily in 2004, and that he voluntarily participated in an outpatient substance abuse treatment between October 2004 and January 2005. The psychologist also noted that in an unspecified security clearance application, Applicant described his methamphetamine use as experimental without indicating the frequency of use. The psychologist quotes an unidentified source indicating that Applicant had a relapse while being treated by a physician from the

Department of Veterans Affairs (VA), but does specify when the relapse occurred. The psychologist also mentions that Applicant received a guarded prognosis regarding his future use of illegal drugs, but does not specify who offered the prognosis or when it was given. (GE 5.)

The hearing record contains additional and conflicting statements from Applicant regarding his history of substance abuse. In an October 2013 security clearance application, Applicant reported that he received substance abuse treatment, but reported that he only experimented with methamphetamines on two occasions. It is unclear if the psychologist reviewed the October 2013 security clearance application. At hearing, Applicant testified that he took a leave of absence from work to address his substance abuse issues. He described his use of illegal drugs as not being serious enough to warrant inpatient treatment. Applicant further testified that he did not have a security clearance at the time he used illegal drugs and sought treatment. Since completing treatment in 2005, he denies use of any illegal substance. (GE 5.)

In the evaluation, the psychologist discussed Applicant's diagnosis for ADHD, expressing concern that Applicant received an ADHD diagnosis in his forties given that the disorder usually has childhood onset and is usually diagnosed and treated before midlife. However, the psychologist did not perform testing to confirm or refute the diagnosis. The psychologist's doubt about the appropriateness of the ADHD diagnosis given Applicant's history of methamphetamine abuse weighs heavily in her overall assessment of Applicant's mental health and ongoing security worthiness. (GE 5.)

The psychologist opined that the paranoid ideation that Applicant experienced resulted in the August 2013 security report could be an indication of amphetamine abuse, citing the low probability of an individual experiencing paranoid ideation when taking amphetamines prescribed at therapeutic levels. However, the 2017 evaluation does not discuss Applicant's ADHD treatment history or medication dosages, nor does the evaluation note that the psychologist reviewed any medical records relevant to the issue. (GE 5.)

According to the hearing record, Applicant was diagnosed with ADHD in late 2011 or early 2012. Medical records produced by the Government indicate that Applicant's physician confirmed the diagnosis in March 2014 after conducting a formal battery of tests. Applicant began taking prescribed amphetamines in March 2012. His physician monitored and adjusted the dosage of amphetamines as needed. When Applicant moved to State 1 in September 2012, he engaged a psychiatrist to monitor his medication. Between October 2012 and June 2013, that psychiatrist prescribed an amphetamine medication at a dosage of 30 milligrams (mg) above the drug manufacturer's recommended daily maximum dosage. According to the manufacturer, paranoid ideation is a side effect of the particular amphetamine prescribed. This nine-month period precedes Applicant's August 2013 security report. When Applicant moved to State 2 in July 2013, he resumed treatment with the psychiatrist who treated him in the months before his move to State 1. Over the next six months, the psychiatrist reduced the amphetamine dosage to a level 30mg below the manufacturer's recommend daily maximum dosage. Since the August 2013 security report, Applicant's

employer has made no other reports of paranoid ideation or behaviors. (Tr. 49; GE 7; AE I.)

The hearing record also includes treatment notes from March 2014 to June 2015. During that 18-month period, Applicant had six routine visits with his primary care physician. During each visit, the doctor assessed Applicant's mental state and mood as appropriate. The records do not contain any concerns about paranoid ideation or any other concerns about Applicant's mental health. The records also do not raise any concerns about Applicant misusing his ADHD medication or engaging in drug-seeking behavior. In November 2014, Applicant's physician prescribed a different amphetamine medication to manage Applicant's ADHD symptoms. Applicant has taken the prescription drug as prescribed without any noted impact on his mood. Applicant also provided treatment notes from a July 2018 doctor visit. He informed the doctor about the concerns raised in the 2017 evaluation about his use of stimulant medication. In response, the doctor indicated that he would review Applicant's formal testing and make any changes deemed necessary. Applicant denies taking his ADHD medication in a manner other than prescribed. The record does not contain any instances work place or criminal misconduct related to substance abuse. Applicant's wife, who has known Applicant since December 2013, provided a character letter on his behalf. She has not observed Applicant exhibit any delusional or paranoid behavior. She believes that Applicant responsibly manages his ADHD medication and related medical care. GE 7; AE G, Q.)

Diagnosis 3: Delusional Disorder, persecutory type, severity and remission status unknown

During the evaluation, Applicant denied ever having being treated for any other mental health problem aside from ADHD. He denied experiencing any past paranoid ideation. Applicant also denied the mandatory EAP referral issued by his employer was in response to his August 2013 security report. The psychologist noted that when Applicant was confronted about his August 2013 security report and statements he made to his physician about the ADHD medication making him feel paranoid, Applicant continued to offer either explanations that were contrary to the evidence or explanations that minimized the seriousness of the reported issues. (GE 5.)

Based on the available information, the psychologist determined there was not enough information to support a delusional disorder diagnosis. However, the psychologist expressed concerns that Applicant's paranoid ideation was not completely resolved based on the paranoid behavior he exhibited during the evaluation. The behaviors that the psychologist classified as "not unreasonable, but uncommon" included, asking the psychologist to produce identification after being asked to produce his own, and expressing relief when informed that the PAI would be completed on an encrypted virtual private network (VPN). The psychologist also cited, as evidence of Applicant's ongoing paranoid ideation, his statements about government agencies monitoring digital communications and his belief that his status as an employee of a federal contracting company increased the likelihood that he was being monitored. The monitoring, the psychologist noted, did not bother Applicant who explained that he

viewed the government employees who monitor others for security risks as “just doing their jobs.” Applicant explained to the psychologist that he worked on the development of such a monitoring program. (GE 5.)

Additional Psychological Concerns

In addition to the three diagnoses described above, the psychologist also cited the following as “psychological characteristics interfering with Applicant’s judgment, reliability, trustworthiness:”

[Applicant] was not honest and forthcoming about his substance use history or mental health history with this examiner. Again, although [Applicant’s] deceptiveness and guardedness make it difficult to assess the current severity of his symptoms and whether they occur independently of or only as a result of stimulant abuse, his deceptiveness in itself is a psychological characteristic that clearly intervenes with his judgment, reliability, and trustworthiness.

The psychologist rated Applicant’s prognosis as poor. (GE 5.)

2018 Psychological Evaluation

Applicant procured a second psychological evaluation after the hearing. The evaluation was completed by a three-person evaluation team, including a board certified psychologist, a post-doctoral resident in clinical psychology, and a clinical psychology intern. The evaluation process included a personality assessment inventory, a clinical interview involving all the members of the evaluation team, and a review of the 2017 evaluation report. The evaluation team considered the purpose of the evaluation to provide an “unbiased, third-party assessment in order to provide a second opinion on this matter.” (AE M.)

While the PAI scores produced a valid clinical profile, the evaluation team did not interpret the results. Despite being warned against doing so, the evaluation team determined that Applicant’s approach to the PAI showed an attempted “manipulation of test items.” As a result, the evaluation team concluded that Applicant was “likely evasive and unwilling to admit to many personal faults.” The evaluation team observed that, “[i]ndividuals with similar profiles are often uninterested and unwilling to discuss their problems.” During the evaluation, Applicant provided statements and explanations inconsistent with those he provided during the 2017 evaluation on several topics, including: his history of mental health treatment, his history of illegal drug use, and the purpose of the 2013 EAP evaluation. Given the limited record review and the evaluation team’s finding that Applicant was an unreliable historian, the evaluation team did not believe they had enough information to make any formal or specific diagnoses. However, they reached the following conclusion:

This evaluation seems to be consistent with [the 2017 evaluation]. [Applicant] is consistently evasive and deceptive in his interview responses as well as personality test results.

Unless he is confronted with evidence, [Applicant] appears to deny or minimize any issues that may warrant serious attention. This is a significant integrity, reliability, and trustworthiness deficit ...

It is unknown at this time, due to a lack of credible information if [Applicant] is suffering from any mental disorders, however it is recommended that he seek counseling for his current stressors.

From a psychological perspective and as a result of extensive psychological testing and evaluation, it is felt that he is not recommended for a position impacting national security or involving public trust at this time. He should be reevaluated. (AE M.)

2019 Comprehensive Assessment

In January 2019, Applicant submitted to a “compressive assessment” performed by a licensed clinical professional counselor (LCPC). The letter provided by the LCPC states, in its entirety:

I met with and conducted a Comprehensive Assessment of [Applicant] on 15 January 2019. [Applicant] was open and forthcoming with all of the information that I asked of him. In my opinion, he is trustworthy and competent to hold a U.S. Government Security Clearance. (AE O.)

The note does not indicate what type of evaluation protocol was used or the sources of information used to reach the stated conclusion. In his post-hearing submission, Applicant indicated that he intended to continue “ongoing therapeutic counseling and medication management from a duly qualified mental health professional for my adult ADHD symptoms.” (AE L.)

At the hearing, Applicant appeared appropriately dressed and his mood and disposition were appropriate for the setting. He provided a recent credit report and driving record. Applicant has a favorable financial history and pays his creditors in a timely fashion. He has a clean driving record. In addition to the character letter provided by his wife, Applicant also provided letters from his brother-in-law, a coworker, and his manager. Applicant’s brother-in-law describes Applicant as being thoughtful, considerate, and dependable. Applicant’s manager echoes that sentiment, noting Applicant’s regularity, consistency, and thoroughness in the performance of his job. Another coworker described Applicant as a well-composed individual who has never expressed a negative behavior or attitude. Applicant admitted that he is very security conscious. He stays current on all of his security training and routinely reads the security pamphlets published by his employer. He is mindful of his surroundings and is

careful not to discuss his work in public to avoid unwittingly compromising his employer's or the government's interests. (Tr. 28-29; AE F, L, P, R-S.)

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 to be 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, administrative judges apply the guidelines 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 conscientious scrutiny 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, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse 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

Applicant's August 2013 security report raised concerns about his mental health and resulted in the DOD CAF requesting a psychological evaluation to determine Applicant's continued ability to properly handle and safeguard classified information. The evaluation, completed by a licensed clinical psychologist in December 2017, raised a number of concerns that negatively affect Applicant's ongoing security worthiness.

Based on the results of the December 2017 evaluation, the SOR alleges disqualifying conduct under the psychological conditions, drug involvement and substance misuse, alcohol consumption, and personal conduct guidelines. The psychologist diagnosed three disorders: alcohol use disorder, stimulant abuse disorder, and delusional disorder. The psychologist qualified each diagnosis as "severity and remission status unknown." In addition, the psychologist identified behaviors Applicant exhibited during the evaluation that may suggest a problem with paranoid behavior. However, the most significant finding relating to Applicant's ongoing security worthiness is the psychologist's negative credibility assessment. The psychologist concluded that Applicant was an unreliable and incredible source of information. Applicant's inconsistent and contradictory disclosures and his attempts to present himself in an uncharacteristically favorable light prevented the psychologist from making a more definitive assessment.

However, it is worth noting that the 2017 evaluation is not without its flaws. The report does not identify the records reviewed in reaching the conclusions presented. The report alludes to, but does not detail a more extensive history of mental health issues as well as a more extensive history of substance abuse than reported by Applicant or contained in the hearing record. Accordingly, it is unclear how many times, and under what circumstances Applicant received mental health or substance abuse treatment in the past.

The 2017 evaluation is also problematic in the way it treats Applicant's adult ADHD diagnosis and treatment. The psychologist expressed doubt about the diagnosis without performing testing to confirm or refute it. Because of her doubts about the appropriateness of the diagnosis and her negative assumptions as to why Applicant sought treatment, she did not consider the connection between Applicant's past history of substance abuse and his untreated ADHD symptoms. The psychologist did not examine or discuss the relationship of these factors in reaching her conclusion about Applicant's prognosis for future substance abuse.

Although the psychologist raised legitimate concerns about the potential dangers of amphetamine abuse given Applicant's history and the possible impact of long-time amphetamine use on Applicant's mental health, these concerns are rooted in the assumption that Applicant is abusing his legally prescribed amphetamine medication. The psychologist does not cite any contemporaneous event on which to base this assumption, only that she does not believe Applicant's statements that he takes his ADHD medication as prescribed. The psychologist also dismisses the possibility that the paranoid ideation Applicant experienced resulting in the August 2013 security

report, was temporary and caused by possible overmedication by his treating psychiatrist. It is unclear if the psychologist reviewed any medical records from Applicant's treating psychiatrist or if the psychologist reviewed relevant documents and decided to give them little to no weight. The record does not contain any information to support concerns about amphetamine abuse. The available medical records do not contain any evidence to indicate Applicant has engaged in drug-seeking behavior or that Applicant is engaged in prescription drug abuse. Nor do any of the medical records indicate problems with ongoing paranoid ideation or behavior.

Because the psychologist did not view Applicant in a favorable light, she considered his overall behavior and demeanor problematic. The psychologist elevated behaviors she described as "unusual, but not unreasonable," as being evidence of potentially unresolved paranoid behavior. Because of Applicant's lack of credibility, the psychologist determined that the only way to justify Applicant's behavior was to "choose between a susceptibility to paranoid delusions, paranoia induced by amphetamine or methamphetamine abuse, or both." The psychologist did not consider any benign motivations for Applicant's behavior and statements.

Of particular concern to the psychologist were Applicant's statements about government monitoring of his electronic communications. In evaluating the significance of these statements, context is key. In the psychological evaluation, Applicant exhibited an indifferent attitude toward the occasional and passive government monitoring of his digital communications¹ as opposed to the active, targeted, and malicious intentions of unknown actors he reported in the August 2013 report. Aside from noting the behaviors, the psychologist does not indicate that Applicant's concerns caused him to refuse to participate or cooperate in the evaluation protocol. Applicant is extraordinarily security conscious. He is hyper-vigilant about his environment and security practices. His behavior and statements during the interview are in line with these personality traits. The security concerns raised by these behaviors are resolved in Applicant's favor.

Despite the flaws in the evaluation report, the psychologist identified a security concern not previously raised in prior adjudications of Applicant's security clearance. The psychologist determined that Applicant possessed psychological characteristics that may impair his judgment, stability, reliability, or trustworthiness. Specifically, his deceptiveness and failure to provide full, frank, and candid disclosures regarding adverse information until confronted with evidence. The psychologist rated Applicant's prognosis as poor. The observations regarding Applicant's lack of credibility, evasiveness, deceptiveness and the adverse effect on Applicant's continued security worthiness, were corroborated by the team of duly-qualified mental health professionals Applicant retained in December 2018 for an independent psychological evaluation.

¹ Applicant's statements regarding government monitoring of electronic communications are not incorrect. Government information systems are routinely monitored, and warnings about such monitoring are displayed each time a user logs on to government information system. Also, government monitoring of the electronic communications of private citizens has long been the subject of law suit filed by civil rights organizations. See, e.g., <https://www.aclu.org/issues/national-security/privacy-and-surveillance>.

The record supports a finding that following disqualifying conditions apply:

- **Psychological Conditions Disqualifying Condition 28(b):** an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- **Personal Conduct Disqualifying Condition 16(b):** deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to a ...mental health professional involved in making a recommendation relevant to national security eligibility determination...;
- **Personal Conduct Disqualifying Condition 16(c):** credible adverse information in several adjudicative areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of ... unreliability [and] lack of candor ... or other characteristics indication that the individual may not properly safeguard classified or sensitive information;
- **Alcohol Consumption Disqualifying Condition 22(d):** diagnosis by a duly qualified medical or mental health professional of alcohol use disorder; and
- **Drug Involvement and Substance Misuse Disqualifying Condition 25(d):** diagnosis by a duly qualified medical or mental health professional of substance use disorder.

If considered separately, the concerns regarding Applicant's history of alcohol and substance abuse and the August 2013 incident report may not warrant disqualification. The record does not contain any recent adverse reports from law enforcement or Applicant's employer indicating that he has current problems with these issues. However, when Applicant's history is considered together with the credibility concerns identified in the 2017 and 2018 psychological evaluation reports, the record supports a negative whole-person assessment that indicates an inability to properly handle or safeguard classified information.

Applicant contends that his statements regarding his current alcohol consumption habits and continued abstention from illegal drug use, his compliance with his ADHD treatment plan, his favorable assessment of his overall mental health as supported by the January 2019 comprehensive assessment, and his plan to participate in counseling mitigates any potential security concerns. They do not. Because Applicant has provided inconsistent statements about his substance abuse history and mental health treatment history, as well as his propensity to present himself in an uncharacteristically favorable manner, his testimony carries little weight. Applicant's statements that he will receive ongoing therapeutic counseling from an LCPC also fail to mitigate the alleged security

concerns. Applicant did not present any information regarding the nature and scope of the therapeutic counseling, nor has Applicant demonstrated that he acknowledges or understands the concerns raised in the 2017 and 2018 evaluations. The January 2019 comprehensive assessment, indicating that Applicant is trustworthy and competent to hold a security clearance, is also insufficient evidence of mitigation. The assessment does not provide any basis for this conclusion or any explanation to refute the conclusions in the 2017 and 2018 evaluations. Nor does it provide a favorable prognosis for any of the identified issues. Accordingly, none of the mitigating conditions available under the alleged guidelines apply.

Whole Person Assessment

Applicant is a long-time clearance holder. He takes his responsibilities to adhere to security produces and regulations very seriously. He is always cognizant of and vigilant in his surroundings. He approaches his work with a positive attitude and executes his tasks with regularity, consistency, and thoroughness. Despite this favorable information, doubts remain about his ongoing security worthiness. In reaching this conclusion, I have also considered the whole-person factors at AG ¶ 2(d).

The purpose of the security clearance adjudication is to make “an examination of a sufficient period of a person’s life to make an affirmative determination that the person is an acceptable security risk.” (AG ¶ 2(d).) The 2017 and 2018 psychological evaluations independently reached conclusions supporting a negative-whole person assessment. Applicant’s inability to acknowledge or deal with his problems raises concerns about his judgment, reliability, and trustworthiness that make his continued access to classified information an unacceptable security risk. As the August 2013 security report shows, Applicant will report any perceived security threat in his external environment. However, the evaluations raise concerns that he will not acknowledge, admit, or report potential security issues raised by his own behavior, preventing the government from fully assessing Applicant’s security worthiness.

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, Psychological Conditions	AGAINST APPLICANT
Subparagraphs 1.a – 1.c, 1.e:	Against Applicant
Subparagraph 1.d:	For Applicant
Paragraph 2, Personal Conduct	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Alcohol Consumption	AGAINST APPLICANT

Subparagraph 3.a: Against Applicant

Paragraph 4, Drug Involvement and
Substance Misuse AGAINST APPLICANT

Subparagraph 4.a: Against Applicant

Conclusion

In light of all of the circumstances presented, it is not clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is denied.

Nichole L. Noel
Administrative Judge