



**DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of: )  
)  
) ISCR Case No. 18-01226  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel  
For Applicant: *Pro se*

05/28/2019

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**Decision**

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BENSON, Pamela C., Administrative Judge:

Applicant's most recent psychological evaluation indicated that his present mental status negatively impacts his judgment and trustworthiness. In addition, he did not show diligence, or even a good-faith effort, in the handling of his financial issues. Applicant failed to mitigate the psychological conditions and financial considerations security concerns. National security eligibility for access to classified information is denied.

**Statement of the Case**

On March 23, 2015, Applicant submitted a security clearance application (SCA). On September 26, 2018, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline I (Psychological Conditions), and Guideline F (Financial Considerations). The action was taken under Executive Order (EO) 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 June 8, 2017.

Applicant answered the SOR on October 19, 2018. He denied all of the SOR allegations, and requested a hearing before an administrative judge. On February 28, 2019, the case was assigned to me. On March 5, 2019, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for March 20, 2019.

During the hearing, Department Counsel offered Government Exhibits (GE) 1-4, and I admitted GE 1, GE 3, and GE 4 into evidence without objection. Applicant objected to GE 2, which is a 2017 evaluation report from a licensed psychologist hired by DOD. Applicant provided four character reference letters labeled as Applicant Exhibits (AE) A-D, which I admitted into evidence without objection. I held the record open until April 20, 2019, in the event either party wanted to submit additional documentation. DOHA received the hearing transcript (Tr.) on April 1, 2019. No additional documents were provided, and the record was closed on April 20, 2019.

### **Procedural Rulings**

At the hearing, Applicant objected to GE 2, which is his 2017 psychological evaluation report from a licensed psychologist hired by DOD. The report reflected an undesirable conclusion for Applicant. Applicant requested I take into consideration that at the time of his evaluation, he was under the influence of prescribed medication for his back injury. He did not specify what particular information reported in the evaluation was inaccurate, or what information he provided to the licensed psychologist concerned him. He told the licensed psychologist at the time of his evaluation of the specific medication he was taking, however, the psychologist was not concerned and continued the evaluation. I overruled Applicant's objection since his psychological evaluation is relevant to the facts of this case. I advised him that I would take into account that he was taking prescribed medication when I reviewed the report.

### **Findings of Fact**

Having thoroughly considered the evidence in the record, I make the following findings of fact: Applicant is 35 years old. In 2013, he earned several certifications and two associate's degrees in computer information technology and security. He has never married, and he is a father of a 10-year-old daughter. He received full custody of his daughter when she was entering first grade, which occurred shortly after her mother passed away. Applicant was on Social Security disability from about 2002 to 2010. His parents applied for his disability in 2002 when Applicant was hospitalized a second time for mental health issues. He was hired by a DOD contractor in March 2015. Applicant is a field services technician, and he makes approximately \$46,000 annually. He does not currently possess a DOD security clearance, but his employer is sponsoring him for a security clearance in order for him to perform specific employment duties. (Tr. 15-17, 30, 33-35, 38-39; GE 1)

SOR ¶¶ 1.a and 1.b allege that Applicant was hospitalized in 1999, and again in 2002, due to suicide ideation and manic behavior. Applicant denied these allegations. In his response to the SOR. He admitted that he was hospitalized, but stated that this

information should not be used against him in consideration of his security clearance eligibility. He was forced into the hospital against his will by his parents who, although meaning well, were severely misguided in their actions. This caused him to suffer extreme emotional distress. (Tr. 35)

SOR ¶ 1.c alleges that in 2006, Applicant was treated for Bipolar Disorder, General Anxiety Disorder, and Severe Psychotic tendencies. In 2008, he discontinued mental health treatment and stopped taking his prescribed medications. Applicant denied this allegation in his response to the SOR. He stated the diagnosis was a continuation of the original misguided diagnosis made in 1997, which was based on exaggerated input by his parents to medical personnel. He claimed the prescribed medications administered to him caused most of the issues addressed during his background investigation. (Tr. 25, 35)

SOR ¶ 1.d alleges that in 2010, Applicant was diagnosed with Bipolar Disorder, General Anxiety Disorder, Social Phobia, Alcohol Dependence, Cannabis Dependence, and Polysubstance Dependence. Applicant's prognosis was poor after he discontinued treatment. Applicant denied this allegation in his response to the SOR. He stated that he was in extreme emotional distress following the death of his father, and his fiancée of five years left him and took his daughter with her. He claimed the diagnosing agency did not perform a new evaluation, but only continued his original diagnosis from 1997. The medical facility and staff also had financial reasons to keep him in treatment. Applicant did not recall his use of marijuana in 2010, and that is the reason he did not disclose it on his 2015 SCA. (Tr. 26-28)

The last allegation under Guideline I, (SOR ¶ 1.e), alleges in December 2017, Applicant was diagnosed with Bipolar I Disorder, most recent episode depressed, in partial remission, Alcohol Use Disorder, Severe, in remission, Cannabis Use Disorder, Mild, and Social Anxiety Disorder (with associated panic attacks). In the opinion of the duly qualified mental health professional, Applicant's present mental status and interpersonal style appeared to negatively impact his judgment and trustworthiness. Applicant denied this allegation in his response to the SOR. He claimed the licensed psychologist hired by DOD was not impartial and simply reconfirmed the original diagnosis based on a brief interview. Applicant noted at the time of the evaluation, he was awaiting back surgery and was under the influence of prescribed medications. Finally, he claimed the psychologist was offended by Applicant's distrust of all mental health professionals, and especially after Applicant discounted the value of the field of psychology since it is purely based on opinion. (Tr. 24, 30-33)

The 2017 psychological evaluation was requested by the DOD CAF after Applicant's background investigation revealed he was diagnosed with Bipolar Disorder, General Anxiety Disorder, and Severe Psychotic tendencies. In addition, there was also evidence of cannabis and alcohol abuse. The DOD CAF requested Applicant participate in a psychological exam. Applicant complied with the request and he was evaluated in August 2017. Applicant told the licensed psychologist that he was in treatment beginning around the age of eight. Since 2011, he stopped taking all of his prescribed

medications and has not received any additional mental health treatment. He reported that as a child, he did not get along with his parents, who were strict practitioners of the Mormon faith. Due to his rebellion, his parents thought he had mental health issues, and he was prescribed numerous medications. Applicant admitted that he recently experienced a panic attack in advance of the present evaluation. His panic attacks are almost always related to a stressful event in his life. (Tr. 32; GE 2)

In 2002, when Applicant was 19 years old, he was hospitalized multiple times due to suicide ideation and manic behaviors. He reported to the psychologist that the primary reason for treatment in 2002 involved his use of alcohol. Applicant moved away from his parents, and in 2006, at the age of 23, he voluntarily sought mental health treatment. The records indicate that he was diagnosed with Bipolar Disorder, General Anxiety Disorder, and Severe Psychotic tendencies. He soon stopped all medication and counseling, and sought "alternative treatments" instead of taking prescribed medications. Nevertheless, Applicant sought mental health care again in 2010, at the age of 27. He was contemplating suicide and had a plan to potentially use a knife to commit suicide. The 2010 treatment records showed that he was diagnosed with Bipolar Disorder, Psychotic Disorder NOS, Generalized Anxiety Disorder, Social Phobia, Alcohol Dependence, Cannabis Dependence, and Polysubstance Dependence. He was prescribed Lexapro, Depakote, Klonopin, and Zyprexa. Additionally, a history of paranoia, visual hallucinations, and delusional and disorganized thinking was noted in his treatment records. (GE 2)

The psychologist noted that Applicant was evasive in reporting his past use of alcohol and marijuana during the interview. Applicant admitted that alcohol was more of a problem for him, and said, "I drank a half gallon of Vodka a day from the time I was 17 until I was 27." The psychologist noted that Applicant exhibited a more stable lifestyle since 2011. Nonetheless, the present evaluation revealed that Applicant, by his own admission, continued to suffer from psychiatric symptoms which interfered with his life. It was also likely that Applicant continued to use alcohol and/or cannabis based on his previous history, and his reluctance to frankly discuss the topic during his interview. Based on the review of past treatment records, clinical interview and observations, and personality assessment, the psychologist determined Applicant appears to meet the criteria for the following past and current DSM-5 disorders:

Bipolar I Disorder, most recent episode depressed, in partial remission;  
Alcohol Use Disorder, Severe, in remission;  
Cannabis Use Disorder, Mild  
Social Anxiety Disorder (with associated panic attacks).

"CONCLUSION: Applicant's present mental status and interpersonal style appear to negatively impact his judgment and trustworthiness. Furthermore, if his historical mental health symptoms were to reemerge, his stability and reliability would almost certainly be negatively impacted as well." (Tr. 29; GE 2)

The SOR also alleges adverse financial information. Applicant attributed his financial problems due to the absence of financial aid during his last semester of college. In addition, he is a single parent, and he injured his back in 2016. His injury caused him to suffer financially due to medical expenses and ultimately, expenses related to his back surgery in 2017. (Tr. 22)

SOR ¶¶ 2.a-d allege that Applicant is indebted to the Department of Education for four defaulted student loans totaling \$23,246. Applicant denied all SOR allegations in his response to the SOR since he does not believe the DOD should hold any unpaid debt against him in the evaluation of his security clearance eligibility. At the hearing, Applicant admitted he currently owed approximately \$34,000 for his defaulted student loans, even after his 2018 tax refund of \$3,800 was involuntarily intercepted by the Internal Revenue Service toward payment of this debt. He was supposed to start repaying his loans in 2015. He made a few payments, but admitted that he had not recently made any payments on his loans. Instead, Applicant has been saving money in the event he does not receive his security clearance and he is terminated by his employer. The student loan debt is not currently being paid and is unresolved. (Tr. 17-19, 38; GE 3)

SOR ¶ 2.e alleges that Applicant is indebted to an apartment complex in the amount of \$1,895. Applicant stated that this debt originated from him breaking his lease on an apartment while he was enrolled in college. Applicant has not resolved this debt. (Tr. 19-20; GE 3)

SOR ¶ 2.f alleges that Applicant is indebted to a collection agency in the amount of \$493. Applicant denied this account and explained that due to the Equifax breach of personal information, the financial accounts alleged in the SOR could be the result of the security breach. He did not do any research concerning this account to determine if he was responsible for the debt. This account has not been resolved. (Tr. 20; GE 3)

SOR ¶ 2.g alleges that Applicant is indebted for an unpaid utility account in the amount of \$275. This debt surfaced about the same time Applicant broke his lease on the apartment, noted above. He acknowledged this debt and stated that he had not taken any steps to pay this account. This debt remains unsatisfied and unresolved. (Tr. 20-21; GE 3)

SOR ¶¶ 2.h and 2.i allege that Applicant is indebted for two unpaid medical accounts in the approximate amount of \$390. Applicant denied these accounts since he provided the medical provider with his correct insurance information. He has not taken any other action with the creditor to obtain a final resolution of these unpaid medical accounts, nor did he provide any mitigating financial documentation with his SOR response, during the hearing, or when the record was held open for one month after his hearing. These medical debts are unresolved. (Tr. 21, 37; GE 3)

Applicant provided four character reference letters during the hearing. (AE A-D) It appears that all four individuals have worked with him, and all characterized Applicant

as a trusted, dedicated employee. Only one of these individuals commented that he was aware of Applicant's adverse financial issues in relation to his security clearance eligibility. (AE B) None of the individuals, however, seemed to be aware of the psychological conditions security concerns alleged in the SOR. All four character references recommended Applicant be granted a security clearance.

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG 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(c), 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. 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 as to obtaining 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 as to 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 I: Psychological Conditions**

AG ¶ 27 expresses the security concern for psychological conditions:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The medical information and report in evidence raised the following Psychological Conditions Disqualifying Conditions under AG ¶ 28:

- (a) behavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and
- (d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

The SOR alleges psychological conditions security concerns based on Applicant’s long history of multiple hospitalizations and treatment for Bipolar Disorder, Psychotic Disorder NOS, Generalized Anxiety Disorder, Social Phobia, Alcohol Dependence, Cannabis Dependence, and Polysubstance Dependence. His most recent psychological evaluation indicated Applicant’s present mental status and interpersonal

style negatively impact his judgment and trustworthiness. All the above disqualifying conditions apply.

I considered the following mitigating conditions under AG ¶ 29:

(a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer has indications of emotional instability; and

(e) there is no indication of a current problem.

Applicant has not received professional treatment or prescribed medications for his diagnosed psychological issues since approximately 2011. He does not have any plans to seek mental health counseling in the future. In 2017, a qualified mental health professional determined that Applicant's condition was not fully under control and his present mental status and interpersonal style appear to negatively impact his judgment and trustworthiness. None of the mitigating conditions fully apply.

#### **Guideline F: Financial Considerations**

AG ¶ 18 articulates the security concern for financial problems:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. . . .



AG ¶ 19 includes two disqualifying conditions that could raise a security concern and may be disqualifying in this case: “(a) inability to satisfy debts”; and “(c) a history of not meeting financial obligations.” The evidence of record establishes AG ¶¶ 19(a) and 19(c). Further inquiry about the applicability of mitigating conditions is required.

Five financial considerations mitigating conditions under AG ¶ 20 are potentially applicable:

(a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant provided some mitigating information by revealing that his finances were harmed by his inability to obtain financial aid for his last semester in college, his back injury in 2016, and the resulting surgery and unpaid medical bills. He has been fully employed since 2015. Applicant chose to put extra money into a savings account in the event he does not obtain a security clearance instead of paying money toward his delinquent debts. He was put on notice with the receipt of his 2018 SOR that his delinquent finances were a security concern.

Applicant has not made payments or arranged payment plans to address any of his delinquent debts. His 2018 income tax refund was intercepted recently as a partial payment towards repayment of his delinquent defaulted student loans because he failed to pay them voluntarily. This does not demonstrate a good-faith effort to resolve debts or repay overdue creditors. His student loans total about \$34,000, and five other debts total about an additional \$3,000. He has not taken responsible action in his handling of

his student loans and other delinquent debt. Under the current circumstances, there are not clear indications that his financial problem is being resolved, and his finances are not under control. None of the mitigating conditions fully apply.

### **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.

Applicant is a 35-year-old field services technician for a DOD contractor. He has a long history of mental health problems and was on disability for his condition until approximately 2010. He has a strong mistrust of the mental health profession, and he decided to stop his mental health treatment and prescribed medications in about 2011, against medical advice. During his 2017 mental health evaluation, Applicant admitted that he continues to suffer mental health-related conditions. The licensed psychologist reported that he may be a security risk.

Applicant's defaulted student loans and five delinquent accounts currently total about \$37,000. Applicant has not made any voluntary payments or made arrangements with overdue creditors to resolve his delinquencies. Despite being fully employed since 2015, he did not show diligence, or even a good-faith effort, in the handling of his financial issues. Applicant's failure to take responsible action does not demonstrate good judgment, reliability, and trustworthiness. Accordingly, Applicant has not carried his burden of showing that it is clearly consistent with the national interest to grant him eligibility for access to classified information.

### **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 I:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a-2.i:	Against Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Pamela C. Benson  
Administrative Judge