



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



In the matter of: )  
)  
) ISCR Case No. 18-01484  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Michelle P. Tilford, Esq., Department Counsel  
For Applicant: Mark A. Myers, Esq.

05/22/2019

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**Decision**

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LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the psychological conditions security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On November 9, 2018, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline I, psychological conditions. Applicant responded to the SOR on December 3, 2018, and requested a hearing before an administrative judge. The case was assigned to me on March 4, 2019.

The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on April 11, 2019, scheduling the hearing for May 8, 2019. The hearing was convened as scheduled. Government Exhibits (GE) 1 through 4 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through K, which were admitted without objection. On May 15, 2019, I proposed to the parties that this case was appropriate for a summary disposition in Applicant's favor. Department Counsel objected.

## Findings of Fact

Applicant is a 39-year-old employee of a defense contractor. She has an associate's degree and additional college credits. She is married, but separated, with three children.

Applicant has had minor employment, financial, interpersonal, and legal issues, none of which were significant enough to be a security concern. She went to a new doctor in December 2014, but she did not like how she was treated, and she left shortly after she arrived for her first visit. She filed a complaint against the doctor. The doctor was apparently interviewed for Applicant's background investigation and provided derogatory information, which spurred the DOD to request a psychological evaluation.

Applicant was evaluated at the DOD's request by a licensed clinical psychologist on January 24, 2018. The report of the evaluation was completed on February 2, 2018. The psychologist diagnosed Applicant with "Histrionic, borderline, and narcissistic personality traits (Cluster B)." The psychologist wrote that Applicant "does not endorse or display obvious symptoms of mood disorder at this time . . . . She does display obvious signs of a characterological disorder . . . ." The psychologist also wrote:

Among the problematic issues that can arise in individuals with Cluster B personality traits are lack of empathy, irresponsibility and selfish behaviors, unprovoked aggressive outbursts that can be verbal and/or physical in nature, and many other inappropriate behavior (e.g., behaving in provocative or attention seeking ways).

The psychologist questioned Applicant's judgment, reliability, and trustworthiness, and opined that "[g]iven the longstanding legal, occupational, and family difficulties in this case, and her lack of insight or interest in treatment, the prognosis for this applicant is poor."

Applicant presented a letter from her treating physician whose medical opinion is that Applicant "is mentally well." She also presented an evaluation from a licensed clinical social worker (LCSW) who found no diagnosis and that Applicant "does not present with the 'Cluster B' Personality Disorders, nor does she present with any emotional, mental and personality condition that impair[s] her judgment, reliability, or trustworthiness." Applicant also presented substantial character evidence attesting to her excellent job performance, emotional stability, honesty, dedication, loyalty, work ethic, and integrity.

## Policies

This case is adjudicated 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), which became effective on June 8, 2017.

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(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."

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

### Guideline I: Psychological Conditions

The security concern for psychological conditions is set out in AG ¶ 27:

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 guideline notes several conditions that could raise security concerns under AG ¶ 28. The following is potentially applicable in this case:

(b) an opinion by a duly qualified mental health professional that the individual has a condition not covered under any other guideline that may impair judgment, reliability, or trustworthiness.

The psychologist diagnosed Applicant with “Histrionic, borderline, and narcissistic personality traits (Cluster B),” and reported that problematic issues can arise in individuals with those personality traits. The psychologist also questioned Applicant’s judgment, reliability, and trustworthiness.

In order to establish AG ¶ 28(b), there must be both an opinion that the individual has a condition and that the condition may impair judgment, reliability, or trustworthiness. There are some issues with both prongs. I note that Applicant was never diagnosed with a personality disorder; it was the psychologist’s opinion that she exhibited certain personality traits. The psychologist presumably utilized the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), which provides:

*Personality traits* are enduring patterns of perceiving, relating to, and thinking about the environment and oneself that are exhibited in a wide range of social and personal contexts. Only when personality traits are inflexible and maladaptive and cause significant functional impairment or subjective distress do they constitute personality disorders.

There is some question whether personality traits that do not rise to the level of a personality disorder constitute a “condition.” In that regard, the DSM 5 addresses narcissistic personality traits:

Many highly successful individuals display personality traits that might be considered narcissistic. Only when these traits are inflexible, maladaptive, and persisting and cause significant functional impairment or subjective distress do they constitute narcissistic personality disorder.

The DSM similarly warns about histrionic personality traits:

Many individuals may display histrionic personality traits. Only when these traits are inflexible, maladaptive, and persisting and cause significant functional impairment or subjective distress do they constitute histrionic personality disorder.

There is also the question whether those personality traits “*impair* judgment, reliability, or trustworthiness” (emphasis added), or an individual’s behavior, which may reflect poor judgment, reliability, or trustworthiness, is utilized to establish that the individual has personality traits. In that regard, it is not completely clear whether the psychologist rendered her opinion about Applicant’s judgment, reliability, and trustworthiness based on Applicant’s psychological condition or on her behavior. In spite of the identified issues, the totality of the evaluation is sufficient to raise concerns under AG ¶ 28(b).

AG ¶ 29 provides conditions that could mitigate security concerns. The following are potentially applicable:

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

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

Applicant presented a letter from her treating physician whose medical opinion is that Applicant “is mentally well.” She also presented an evaluation from an LCSW who found no diagnosis and that Applicant “does not present with the ‘Cluster B’ Personality Disorders, nor does she present with any emotional, mental and personality condition that impair[s] her judgment, reliability, or trustworthiness.” Applicant also presented substantial character evidence. I am satisfied that Applicant possesses the judgment, reliability, and trustworthiness required for a security clearance holder. I conclude that any security concerns raised under AG ¶ 28(b) are mitigated under AG ¶¶ 29(d) and 29(e).

### **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 relevant 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 have incorporated my comments under Guideline I in my whole-person analysis.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the psychological conditions security concerns.

### **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:	For Applicant
Subparagraph 1.a:	For Applicant

### **Conclusion**

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

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Edward W. Loughran  
Administrative Judge