



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



In the matter of: )  
)  
) ISCR Case No. 20-00556  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: Daniel P. Meyer, Esq.

09/09/2021

**Decision**

RIVERA, Juan J., Administrative Judge:

Applicant is receiving mental health treatment and his condition is improving. While he has a number of behavioral and mental health challenges, Applicant’s evidence is sufficient to conclude that his conditions do not negatively impact his judgment, reliability, and trustworthiness in the context of safeguarding sensitive information and working in a cleared setting. Clearance is granted.

**Statement of the Case**

Applicant submitted his most recent security clearance application (SCA) on September 28, 2016. He was interviewed by a government investigator in May 2017, and answered two sets of interrogatories from the Defense Office of Hearings and Appeals (DOHA) in May 2017 and October 2020. (GE 2 and 3)

After reviewing the information gathered during the background investigation, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) on November 20, 2020, alleging security concerns under Guidelines D (sexual behavior) and E (personal conduct). Applicant answered the SOR on January 19, 2021, and requested a hearing before a DOHA administrative judge.

DOHA assigned the case to me on April 7, 2021, and issued a notice of hearing on April 23, 2021, setting the hearing for May 19, 2021. At the hearing, the Government offered seven exhibits (GE 1 through 7). GE 1 - 6 were admitted into the record without any objections. GE 7 is a copy of the Government's discovery letter mailed to Applicant in March 2021, which was marked and made part of the record, but it is not substantive evidence.

Applicant testified on his own behalf as reflected in a transcript (Tr.) received by DOHA on May 28, 2021. At his hearing, Applicant submitted a number of documents, collectively marked as Applicant's exhibit (AE) 1, which is comprised of Applicant's counsel's brief (made part of the record, but it is argument and not substantive evidence), and five tabs, marked A through E. AE 1(A) is a power of attorney. AE 1(B) is a copy of the SOR. AE 1(C) is Applicant's written statement. AE 1(D) is comprised of three reference letters. AE 1(E) is a report of Applicant's April 2021 psychological evaluation. AE 1(A through E) were admitted and made part of the record, without objections.

### **Findings of Fact**

The SOR alleged under Guideline D, and cross-alleged under Guideline E, that Applicant was diagnosed with a fetishistic disorder; engaged in sexual behavior of a compulsive nature related to diapers; sought imagery related to diapers for arousal and masturbation purposes; inadvertently viewed child pornography multiple times; has stolen diapers; feels significant shame and anxiety associated with his sexual predilections; and does not want his sexual behavior to be discovered by others. Applicant admitted both allegations and submitted evidence in mitigation.

Applicant's SOR admissions and those at his hearing are incorporated into my findings of fact. After a thorough review of all the record evidence, I make the following additional findings of fact:

Applicant, 32, has been working for his employer and clearance sponsor since May 2012. After graduating from high school, he completed his bachelor's degree in 2012. He has never been married and has no children.

In 2012, Applicant requested clearance eligibility to work for a federal Agency (Agency). He participated in five interviews with Agency investigators, three of them were polygraph-assisted interviews conducted in May, June, and August 2012, and two were regular interviews conducted in May and November 2012. (GEs 2, 3, 4) After the interviews, he requested the Agency to stop adjudicating his clearance eligibility. Apparently, the Agency did not adjudicate his eligibility for a clearance, and he has continued working for his current employer.

In September 28, 2016, Applicant submitted his pending SCA and disclosed his prior application for a clearance with the Agency. The subsequent background investigation revealed the pending security concerns, which are based on information Applicant disclosed during his five Agency interviews in 2012.

Applicant's interest in diapers started when he was five-six years old. He would occasionally wear his younger sister's diapers. When he was 10 years old, he became sexually aroused when he touched the outside of a two-year-old's diaper. At age 15, he masturbated after holding his infant cousin in a diaper. While in high school, he stole a package of diapers because he was too embarrassed to pay for them. Between 2007 and 2012, he used diapers at least once a week for sexual gratification. He wears the diapers at home when he is alone. He enjoys to excrete and to masturbate in the diapers. Applicant denied feeling aroused by any stimuli other than the diapers (i.e., men, women, children, naked bodies, breasts, etc.). He repeatedly denied any sexual attraction to children.

Applicant admitted to doing many internet searches for diapers and viewing images of children wearing diapers (at least once a week during a six-month period). He denied that this images were of a sexual nature. He viewed the images because he is sexually aroused by the diapers, and not who is wearing them. He unintentionally viewed child pornography many times up until two or three years before his 2019 mental evaluation. The feeling that he was doing something wrong when he searched for children in diapers became too much for him to ignore, and he has been trying to stop his behavior. Applicant repeatedly explained that he has never been aroused by children or adults regardless of the sex, and he has never sought out child pornography. His fixation is with the actual diapers.

Applicant experienced disgust and shame in response to the unintended viewing of child pornography and immediately discontinued the image search. To stop inadvertently accessing child pornography, he began viewing drawings of children and adults wearing diapers while dressed in animal costumes (the "furry community"). The drawings and he "furry community" provide him with gratification. During the last 10 years, Applicant has been making a concerted effort to stay away from all children. He does not want to put himself in a position where he potentially could inappropriately touch a child.

Applicant experiences significant shame and anxiety associated with his sexual predilections. Only his brother, Agency and DOD investigators, his counsel, DOHA personnel, and some of his mental health providers are aware of his fetish. Applicant believes that his participation in the security hearing and testifying about his fetish demonstrate that he has improved substantially managing his depression and anxiety and that he cannot be blackmailed or manipulated by someone who may gain knowledge of his sexual preferences. He promised to disclose any attempts to manipulate him to security officials and never to divulge classified information.

In January 2019, Applicant participated in a psychological evaluation performed by Dr. E (a Doctor of Philosophy (Ph.D.) in Psychology and a Health Service Provider in Psychology (HSPP)), appointed by the DOD CAF. Dr. E quickly dismissed initial concerns about Applicant's violent tendencies (thoughts of harming himself and others, him being a psychopath), and at risk of substance addiction, by noting that there was no data to support any of those possibilities.

Concerning Applicant's diaper fetish, Dr. E noted that Applicant has limited insight about his fetish. He does not know why he developed the interest or how he might discontinue the behaviors. Applicant admitted to Dr. E that he viewed child pornography in the past, but credibly explained that he was looking only to see images of diapers and never for the purpose of sexual gratification via images of children. Once he became aware and felt badly enough about doing so, he switched to searching for images of drawings of children in diapers and images of people wearing diapers while dressed in animal costumes.

In his evaluation report, Dr. E noted that his research suggests that there is only a weak link between the diaper fetish and pedophilia. He noted that "while [Applicant] does engage in atypical sexual behaviors, the data does not support concerns that he is exhibiting signs and symptoms of pedophilia." There is no real evidence that Applicant has pedophilic tendencies.

Dr. E noted a number of favorable factors found during the evaluation that in his opinion mitigate Applicant's difficult psychological, behavioral, and societal problems. He has been working for his employer since 2012 without incident. His supervisor favorably endorsed Applicant for a clearance. Applicant is considered to be a rule follower, and he would be the first to report something out of the ordinary, and the last to violate security protocols.

Dr. E highlighted that Applicant has been engaging with mental health providers for many years. Applicant first sought mental health care when he was 15 or 16 for anger management issues. Dr. E's mental evaluation report quotes the DOD investigative report indicating that he was seen for counseling in 2008, at age 19. Between October and December 2016, he saw Dr. V for anxiety, depression, and the diaper fetish. He then continued treatment with MB (a licensed professional counselor (LPC) with a master's degree in mental health (M.A.)) at the same practice, beginning in June 2017 to an unknown date. Both Dr. V and MB reported to DOD investigators that they did not believe Applicant has any condition that could impair his reliability, judgment, or trustworthiness, and both assessed Applicant's prognosis as fair. (GE 5)

While in counseling, Applicant also consulted with Dr. A (psychiatrist) between October and November 2016. Dr. A reported to DOD Investigators that in his opinion, Applicant did not have any condition that could impair his reliability, judgment, or trustworthiness, and assessed Applicant's prognosis as fair. (GE 5)

In 2017, Applicant participated in three therapy sessions of Eye Movement Desensitization and Reprocessing (EMDR) with EL. The therapist recommended Applicant participate in a psychological evaluation. Dr. JC evaluated Applicant between January and February 2017. Both EL and Dr. JC reported to DOD investigators that in their opinion, Applicant did not have any condition that could impair his reliability, judgment, or trustworthiness, and assessed Applicant's prognosis as fair.

In the summer of 2018, Applicant started seeing Dr. MS (psychiatrist) and social worker DS for depression, anxiety, and the fetish. Applicant attended weekly therapy sessions and was prescribed an anxiety medication with good results. In July 2019, DS was interviewed by Dr. E during his preparation of Applicant's mental evaluation. DS stated that he had been treating Applicant for about a year. He described Applicant as a hard worker and a rules follower, who is motivated to do well in life. In DS's opinion, Applicant functions well enough overall that he does not believe his mental health affects his ability to do his job. DS has no concerns about Applicant having access to classified information or working in a secured setting. DS believes Applicant was making good progress controlling his mental health symptoms and understanding his fetish. His medication had reduced his anxiety symptoms, and he has been consistent in treatment.

DS noted Applicant experiences shame associated with his fetish because he is aware that his desires and behavior are not considered normal. In his opinion, Applicant would be horrified if information about his fetish surfaced publicly, but in MS's opinion Applicant would not betray his country or divulge sensitive information because of his overriding rule-following tendencies. Applicant did not discuss with DS his arousal as a result of viewing children wearing diapers until he was issued the SOR.

Dr. E diagnosed Applicant as follows: (GE 5)

F65.0 Fetishistic Disorder

F33.9 Major Depressive Disorder, recurrent, unspecified

F41.9 Anxiety Disorder, unspecified (with signs of Generalized Anxiety, PRSD, Panic, Agoraphobia, and Social Anxiety)

He opined that Applicant's prognosis is fair. Dr. E concluded that: "while he has a number of important behavioral and mental health challenges, Applicant has enough mitigating factors to conclude that his conditions do not negatively impact his judgment, reliability, and trustworthiness in the context of safeguarding sensitive information and working in a cleared setting." (GE 5)

At his hearing, Applicant presented his own psychological evaluation performed by a licensed psychologist, Dr. Y (Ph.D.), in April 2001. (AE E) Dr. Y diagnosed Applicant with:

General Anxiety Disorder (300.02; F41.1)  
Persistent Depressive Disorder, with intermittent major depressive episode, with  
current episode, moderate (300.4; F34.1)  
Fetishistic Disorder (302.81; F65.0)

Dr. Y recommended, among other things, individual psychotherapy for depression and anxiety for the consistent monitoring of Applicant's passive suicidal ideation; continued consulting with a psychiatrist for ongoing medication management; and interpersonal effectiveness and social skills training.

Dr. Y noted that Applicant repeatedly emphasized that he is not sexually aroused by children, and that his sexual arousal is specific to diapers. He has not engaged in any sexual contact with a child, nor does he have the desire to do so. To avoid incidental viewing of child pornography, Applicant has chosen to remove people from the process entirely. He limits his behavior to wearing diapers himself, sexually interacting with diapers (without others present), and viewing diaper-related pornographic cartoons typical of the "furry community" (not involving people). (AE E)

Applicant submitted a written declaration by DS, a licensed clinical social worker with a master's degree. DS has provided therapy to Applicant for depression and anxiety disorder from 2018 to present. In his opinion, Applicant has learned and used new coping skills that have improved his depression and anxiety. He believes that Applicant's willingness to put himself through the investigation and clearance process speaks to his improvement with his anxiety and depression. He noted that from the beginning, Applicant has fully participated and attended all scheduled therapy sessions.

DS stated that Applicant has been apprehensive about joining websites that focus on fetishes due to his understanding of the cyber world that this information would be seen by anyone looking for him. He stated that he wanted to stay off the grid. DS stated that he trusts Applicant with the security of the United States and recommends him for a clearance. (AE D)

Applicant's manager and team lead provided a declaration in support of Applicant. He has known Applicant since 2012, and has been his direct supervisor for the last four years. He has never observed Applicant engage in any conduct that would jeopardize national security or the security of the company's products. In his opinion, Applicant is one of the hardest working, most responsible and supportive people he works with. He is of high character and sound moral judgment. He has not seen anything in his actions, behavior, or emotions that would lead him to believe Applicant should not be given a clearance. He fully trusts Applicant and confidently recommends his eligibility for a clearance. He is unaware of Applicant's fetish. (AE D)

Applicant submitted a declaration from another engineering manager, PB, who has known Applicant since 2012, and has worked with him for the last nine years. He trusts Applicant to use his sound judgment to enhance the security of the products they

build. In his opinion, Applicant takes security seriously. He has never witnessed any inappropriate behaviors. In his opinion, Applicant is reliable, trustworthy, and displays sound judgment. He trusts Applicant with the security of the United States and recommends him for a clearance. He is unaware of Applicant's fetish. (AE D)

### **Policies**

The SOR was issued under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive) (January 2, 1992), as amended; and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), applicable to all adjudicative decisions issued on or after June 8, 2017.

Eligibility for access to classified information may be granted "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended. The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing that "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

The AG list disqualifying and mitigating conditions for evaluating a person's suitability for access to classified information. Any one disqualifying or mitigating condition is not, by itself, conclusive. However, the AG should be followed where a case can be measured against them, as they represent policy guidance governing access to classified information. Each decision must reflect a fair, impartial, and commonsense consideration of the whole person and the factors listed in SEAD 4, App. A ¶¶ 2(d) and 2(f). All available, reliable information about the person, past and present, favorable and unfavorable, must be considered.

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. The applicant bears the heavy burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability, and trustworthiness of those who must protect national interest as their own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government.

"[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; SEAD 4, ¶ E(4); SEAD 4, App. A, ¶¶ 1(d) and 2(b). Clearance decisions are not a determination of the loyalty of the applicant concerned. They are merely an indication that the applicant has or has not met the strict guidelines the Government has established for issuing a clearance.

## **Analysis**

### **Guideline D: Sexual Behavior**

AG ¶ 12 sets forth the security concern as follows:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

Applicant was diagnosed with a fetishistic disorder. He engaged in sexual behavior of a compulsive nature related to diapers; sought imagery related to diapers for arousal and masturbation purposes; inadvertently viewed child pornography multiple times; stole diapers; feels significant shame and anxiety associated with his sexual predilections; and does not want his sexual behavior to be discovered by others.

AG ¶ 13 provides conditions that could raise a security concern and may be disqualifying:

- (a) sexual behavior of a criminal nature; whether or not the individual has been prosecuted;
- (b) pattern of compulsive, self-destructive, or high-risk sexual behavior that the individual is unable to stop;
- (c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and
- (d) sexual behavior of a public nature or that reflects lack of discretion or judgment.

Applicant unintentionally viewed child pornography many times up until about 2016. The sexual behavior of a criminal nature is not established by the evidence.



AG ¶ 13(a) is not applicable to this case. Applicant admitted to inadvertently seeing images of child pornography while looking for children wearing diapers. The 11th Circuit Court said:

Inadvertent receipt of child pornography is not a violation of the statute . . . Section 2252A(a)(2) criminalizes only “knowing” receipt. This element of scienter carries critical importance in the internet context given spam and the prevalence and sophistication of some computer viruses and hackers that can prey upon innocent computer users.

*United States v. Pruitt*, 638 F.3d 763, 766 (11th Cir. 2011).

There is no evidence of him deliberately searching, possessing, or transferring images of child pornography. Presumably, each time when he “inadvertently” viewed an image of child pornography while looking for diapers, he was surprised and immediately closed the image and did not download it into his computer. Applicant testified, and the available record evidence supports the conclusion, that his fetish is specifically related to diapers. He is only sexually aroused by the diapers, regardless of who is wearing them. (Of course, not being sexually aroused by child pornography is not a defense to the crime of possession of child pornography.) Applicant has been in treatment with at least eight mental health providers-therapists since 2016. Those to whom Applicant disclosed his diaper fetish, including Dr. E (DOD CAF psychologist), opined that Applicant’s fetish does not involve children. Dr. E noted that there is no evidence to show that he has pedophilic tendencies.

Applicant has taken significant steps to avoid the accidental viewing of child pornography. In 2016, he stopped looking for images of children wearing diapers. To avoid incidental viewing of child pornography, Applicant has chosen to remove people from the process entirely. He limits his behavior to wearing diapers himself, sexually interacting with diapers (without others present), and viewing diaper-related pornographic cartoons typical of the “furry community” (not involving people).

AG ¶ 13(b) is established by the evidence. Applicant’s diaper fetish is compulsive. He continues to wear diapers and seeks sexual release by masturbating in the diapers. He also continues to seek images of “things” wearing diapers. However, all of his behavior is strictly private, behind closed doors at his home and no one else is involved. He stole a package of diapers when he was in high school, but he now buys them.

Applicant has been trying to stop his atypical behavior. He sought counseling and therapy to control his depression, anxiety, and his diaper fetish. According to his mental health providers Applicant is progressing with his counseling and therapy. I find that Applicant’s diaper fetish is not “self-destructive, or a high-risk sexual behavior.” He has modified his behavior to avoid contact with images of people, children or adults, to ensure no more accidental transgressions.

AG ¶ 13(c) is established by the evidence. Applicant's behavior is atypical - it is not considered normal in our society - and he is keenly aware of it. The fear of being discovered causes anxiety and depression to Applicant and he does not want his sexual behavior to be discovered by others. Thus, his behavior could make him vulnerable to exploitation, coercion, or duress.

Notwithstanding, I find Applicant's evidence sufficient to mitigate the security concern. He has been forthcoming during the security clearance process, disclosing his atypical behavior and discussing it with DOD investigators in 2017. Moreover, Applicant sought mental treatment for his depression, anxiety, and fetish starting in 2016, and he has continued his treatment to present. He disclosed his atypical behavior to several of his mental health providers. He was lauded by his therapists for his dedication to his treatment and the progress he has made.

As noted by his current therapist, Applicant's appearance and testimony at his security hearing show that he has control of his anxiety and depression, and that he can be expected to report any attempted coercion, exploitation, or duress to his supervisors and security officials. Applicant may be embarrassed by his atypical sexual behavior, but he had the fortitude of appearing and testifying about his fetish in a difficult hearing.

AG ¶ 13(d) is established by the evidence. In pursuit of his fetish, he stole diapers and viewed child pornography more than once. However, Applicant's behavior is not of a public nature, and it currently does not reflect a lack of discretion or judgment.

AG ¶ 14 provides the following possible mitigating conditions:

(a) the behavior occurred prior to or during adolescence and there is no evidence of subsequent conduct of similar nature;

(b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress;

(d) the sexual behavior is strictly private, consensual, and discreet; and

(e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

AG ¶ 14(b) is partially applicable because his sexual behavior does not cast doubt on his current reliability, trustworthiness, or judgment. Applicant has worked for his company since 2012. His supervisors, who have known and observed him on a daily basis for more than four years, favorably commented on Applicant's performance, his reliability, trustworthiness, and good judgment.

AG ¶¶ 14(c), (d), and (e) are applicable and mitigate the security concern. Applicant has been forthcoming during the current security clearance process. He sought mental treatment for his depression, anxiety, and fetish starting in 2016, and he has continued his treatment to present. He was lauded by his therapists for his dedication to his treatment and the progress he has made. His prognosis is considered fair, but the mental health providers stated that Applicant did not have a condition that could impair his reliability, judgment, or trustworthiness.

As noted by his current therapist, Applicant's appearance and testimony at his security hearing show that he has control of his anxiety and depression, and that he can be expected to report any attempted coercion, exploitation, or duress to his supervisors and security officials. Applicant may be embarrassed by his atypical sexual behavior, but he had the fortitude of appearing and testifying about his fetish in a difficult hearing. Guideline D security concerns are mitigated.

Under Guideline E, the SOR cross-alleged the same sexual behavior alleged under Guideline D. For the sake of brevity, the findings of fact, analysis, and conclusions discussed under Guideline D are hereby incorporated in my Guideline E analysis.

### **Guideline E: Personal Conduct**

AG ¶ 15 sets forth the security concern as follows:

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 a national security investigative or adjudicative process . . . .

Applicant was diagnosed with a fetishistic disorder. He engaged in sexual behavior of a compulsive nature related to diapers; sought imagery related to diapers for arousal and masturbation purposes; inadvertently viewed child pornography multiple times; stole diapers; feels significant shame and anxiety associated with his sexual predilections; and does not want his sexual behavior to be discovered by others. Applicant's behavior raises the following disqualifying conditions under AG ¶ 16:

(c) credible adverse information in several adjudicative issue 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 questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing . . . .

The record established the above disqualifying conditions, requiring additional inquiry about the possible applicability of the mitigating conditions. I considered the following mitigating condition set forth by AG ¶ 17 as partially or fully raised by the evidence:

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

For the same reasons discussed above under the Guideline D mitigating conditions, incorporated herein, I find that AG ¶ 17(d) and 17(e) apply. Applicant is unlikely to possess child pornography in the future. Personal conduct security concerns are mitigated.

### **Whole-Person Concept**

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case, and under the whole-person concept. AG ¶¶ 2(a) and 2(d). I have incorporated my comments under Guidelines D and E in my whole-person analysis. Some of these factors were addressed under those guidelines, but some warrant additional comment.

Applicant, 32, has been employed with a federal contractor since 2012. Two close supervisors with daily contact attested to his professionalism, skills, and knowledge, and noted that he is considered a productive member of the company. In their opinions, Applicant is one of the hardest working, most responsible and supportive people they work with. He is considered to be of high character, reliable, trustworthy, and of sound judgment. They trust Applicant and confidently recommend his eligibility for a clearance.

I considered that Applicant displayed poor judgment when he continued searching the Internet for “diaper images” after the first time he saw a child pornography image as a result of his search. Notwithstanding, he stopped his questionable behavior in 2016, and has taken measures to prevent recurrence. Applicant understands the possible criminal consequences, social stigma, and adverse effects on his security clearance eligibility if he were to repeat his questionable behavior.

Applicant sought mental health treatment starting in 2016, and has continued his treatment to present, improving his condition. I find significant that Applicant’s mental health therapist and doctors, in general, do not believe Applicant has pedophilic tendencies, or to have engaged in criminal conduct. As stated by the DOD CAF psychologist: “While he has a number of important behavioral and mental health challenges, Applicant has enough mitigating factors to conclude that his conditions do not negatively impact his judgment, reliability, and trustworthiness in the context of safeguarding sensitive information and working in a cleared setting.”

### **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 D:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

## **Conclusion**

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national security interests of the United States to grant Applicant's eligibility for a security clearance. Clearance is granted.

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JUAN J. RIVERA  
Administrative Judge