



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



In the matter of:)
)
) ISCR Case No. 20-00977
)
Applicant for Security Clearance)

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel
For Applicant: Alan V. Edmunds, Esq.

11/01/2021

Decision

RIVERA, Juan J., Administrative Judge:

Applicant’s evidence is insufficient to mitigate the psychological conditions, sexual behavior, and personal conduct security concerns. Clearance is denied.

Statement of the Case

Applicant submitted his most recent security clearance application (SCA) on March 13, 2017 (Government exhibit (GE) 1). He was interviewed by government investigators in July, September, and November 2017, and answered a set of interrogatories from the Defense Office of Hearings and Appeals (DOHA), in about May 2020. (GE 2).

After reviewing the information gathered during the background investigation, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) on October 21, 2020, alleging security concerns under Guidelines I (psychological conditions), D (sexual behavior), and E (personal conduct). Applicant answered the SOR on November 11, 2020, and requested a hearing before a DOHA administrative judge.

DOHA assigned the case to me on May 7, 2021, and issued a notice of hearing on April 23, 2021, setting a video teleconference hearing for July 13, 2021. At the hearing, the Government offered 16 exhibits (GE 1 through 16). All exhibits were admitted into the record without any objections, except for GE 16 (Government's discovery letter mailed to Applicant on February 12, 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 July 21, 2021. Attached to his SOR answer, Applicant submitted seven documents marked as Applicant's exhibits (AE) A through F. Before his hearing, Applicant submitted AE G through J to me via email. AE K is a letter of reference received after the hearing. Applicant's exhibits were admitted and made part of the record without objections.

Findings of Fact

The SOR alleged under Guideline I, that Applicant was diagnosed with a pedophilic disorder (with a questionable prognosis) in January 2020. Under Guideline D, it alleged, and cross-alleged under Guideline E, that Applicant engaged in downloading and viewing child pornography from approximately 2011 to 2017, and that he currently reads erotic textual stories involving children. Applicant admitted all of the SOR allegations with comments 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, 41, has been working for federal contractors since 2003, and for his current employer and clearance sponsor since March 2016. He was granted clearance eligibility up to sensitive compartmented information (SCI) by another Federal agency (Agency) in about 2005. He married in 2008, and has one son, age eight. He graduated from high school with a large number of college courses completed, and attended college for some time, but never completed his bachelor's degree.

Applicant has done well in his area of expertise. He has established a strong reputation and is respected by peers and employers for his acumen, dedication, leadership, and professionalism. His performance evaluations show he has been consistently rated as an exceptional employee who exceeds expectations, and has earned yearly awards recognizing him as the best among peers. (AE A and B)

In 2013, Applicant participated in several polygraph assisted interviews. (GEs 3 – 8, and 10, 11) He disclosed that in mid-2011, he began downloading, storing, and viewing child pornography on his personal computer once every two weeks. He viewed videos depicting females ranging from 8 to 17 years of age exposing their genitals, masturbating, and having sexual contact with each other and adults. He masturbated

during these sessions. He also reported that in 2012, he had thought about amassing enough classified information to give to Russia or the Ukraine in exchange for a harem of little girls. He denied ever acting on it. (Tr. 55)

Applicant claimed that he stopped viewing child pornography in about October 2012 after discussing his behavior in detail with his wife and promising her that he would stop. He had his wife set the passwords of his home computer to prevent him from searching for child pornography. At his hearing, he admitted that he was able to go around the passwords and use the computers. He attributed his child pornography viewing habits to the death of a close female friend in 2009.

During a May 2014 polygraph assisted interview, Applicant described himself as a pedophile because he is sexually attracted to underage girls. He claimed he has never acted on his desires. Between the spring of 2013 and March 2014, Applicant read erotic stories featuring underage females engaging in sexual acts with adults. He claimed he stopped reading these stories in March 2014, because they made his sexual urges stronger. He stated that he was masturbating once per month to the thought of engaging in sexual acts with underage females. He told his interviewers that having and maintaining a clearance was a strong deterrent to keep him from viewing child pornography.

After the interview, Applicant participated in counseling with his own therapist and an Agency therapist. After a psychological evaluation, the Agency therapist diagnosed Applicant with Pedophilic Disorder. Notwithstanding this diagnosis, the Agency therapist recommended Applicant continue his work. During a following interview in August 2015, Applicant disclosed that he had searched for, downloaded, stored on his computer, and viewed child pornography on six to seven occasions from one month after his Agency's psychological evaluation in June 2014, to most recently in June 2015. He also used his cell phone to search for child pornography. After the interview, the Agency suspended his clearance and SCI eligibility.

Applicant's appeal to the Agency's decision included a psychological evaluation in December 2015, performed by his treating psychologist, Dr. C, a licensed psychologist (Psy.D). He was diagnosed with: 1) Pedophilic Disorder, Nonexclusive Type, Sexually Attracted to Females (so the attraction to underage females will always be present); 2) Bipolar Disorder, Most Recent Episode Depressed, Mild; and 3) Alcohol Dependence in Sustained Full Remission. Based on the evaluation report, it appears that the psychologist believed that Applicant had only sought and viewed child pornography between 2011 and 2012, with a one-time relapse in 2015. (GE 4)

Applicant's evidence fails to establish that Dr. C was aware that between the spring of 2013 and March 2014, he read erotic stories featuring underage females engaging in sexual acts with adults. It is also not clear whether Dr. C knew that between June 2014 (one month after his Agency's psychological evaluation) and June 2015, he

viewed child pornography on six to seven occasions, and not just one time. (GE 10) The Agency revoked Applicant's clearance in February 2016. (GE 6)

After submitting his 2017 SCA, Applicant was interviewed by investigators from the Office of Personnel Management (OPM) in July, September, and November 2017, and answered a set of interrogatories from the DOHA, in about May 2020. (GE 2). In substance, Applicant reiterated his prior statements to Agency investigators during his interviews with OPM investigators.

In January 2020, the CAF referred Applicant for a psychological evaluation, which was performed by Dr. W, a licensed Doctor of Clinical Psychology (Psy.D). The evaluation report was completed in February 2020. (GE 13) During the evaluation, Applicant told Dr. W that the last time he viewed child pornography was in 2018. She noted that via a post-interview email, Applicant re-stated that he last viewed child pornography in late 2017, towards the end of his therapy sessions with Dr. C. Applicant's counseling records show that he ended his therapy with Dr. C in November 2018. (GE 12) During the evaluation process, Dr. W spoke with Dr. C. Dr. W noted that Dr. C believed Applicant last viewed child pornography in 2013, with a relapse in 2015. (See AE G; GE 13) Applicant's counseling records reflect that he told Dr. C he "relapsed" once in 2016.

Dr. W diagnosed Applicant as follows: (GE 13)

296.56 Bipolar I Disorder, most recent episode depressed, in full remission
F65.4 Pedophilic Disorder (Nonexclusive type, sexually attracted to females)

In her opinion, Applicant's symptoms of Bipolar Disorder appear to be well controlled by his adherence to psychiatric medications. Concerning Applicant's Pedophilic Disorder, she stated: [Applicant] presents with a condition (Pedophilic Disorder) that could pose a significant risk to his judgment, reliability or trustworthiness concerning classified information. In her opinion, Applicant's prognosis is questionable.

At his hearing, Applicant presented his own psychological evaluation performed by Dr. C, in March 2001. (AE G) Dr. C diagnosed Applicant with:

F31.31 Bipolar Disorder, most recent episode depressed, mild
F65.4 Pedophilic Disorder (Nonexclusive type, sexually attracted to females)

Dr. C's evaluation is favorable to Applicant. She noted that he denied acting on his fantasies by sexually assaulting children, and that he consistently expressed severe emotional distress related to his unwanted sexual fantasies. She highlighted that he outed himself as a consumer of child pornography to family members and some friends, and that he has received "overwhelming support" from them in his efforts towards abstinence and controlling his sexual urges. Dr. C believes that during his course of therapy, Applicant abstained from viewing child pornography entirely with the exception

of a relapse that occurred in June 2015. Dr. C failed to note Applicant's relapse of February 2016, which was documented in her counseling notes. (GE 12)

Applicant admitted that he engaged in downloading and viewing child pornography from approximately 2011 to 2018. He stated that his last viewing of child pornography occurred shortly before he stopped his treatment with Dr. C in November 2018. (GE 12; SOR answer; Tr. 26) Applicant stated that if his counseling records do not state the times he relapsed it was likely an oversight that he does not understand, and volunteer to bring the information to Dr. C and have her amend her evaluation letter. (Tr. 92)

Based on Applicant's treatment records and Dr. C's March 2021 evaluation, it appears she was unaware of Applicant's relapses after February 2016. At his hearing, when questioned about how frequently he viewed child pornography after 2015, and when was the last time he did so, Applicant was evasive, and stated that it has been so long ago he no longer recalls. He admitted that he relapsed more than once during his treatment between 2014 and 2018. (Tr. 38)

In his response to DOHA interrogatories (GE 2) and at his hearing, Applicant stated that he had been reading erotic textual stories involving children. He claimed that reading these erotic stories helps prevent him from engaging in any illegal activity (searching, downloading, and viewing child pornography). He testified that reading such stories became part of his coping mechanism and therapy. It was his way of addressing that aspect of sexuality in a way that was both legal and ethical. He believes such behavior is legal and ethical. (Tr. 27)

There is no information in his counseling records or in Dr. C's evaluations showing that she was aware he was reading erotic textual stories involving children. I note that he told Agency investigators that in 2013-2014 he had to stop reading erotic stories involving young girls engaging in sexual acts because such stories make his sexual urges stronger. (GE 8; Tr. 103-104)

Applicant testified that after his treatment discharge in November 2018, he has not felt the urge to look at child pornography. (Tr. 50) He claimed that viewing child pornography is behind him, and that he has had no relapses since November 2018. (Tr. 52)

Attached to his SOR answer, Applicant included favorable reference statements from his wife, mother, father, two co-workers, and a supervisor. (AE E) Most of the letters were apparently prepared for his appeal of the Agency's clearance revocation in 2015-2016. Only one letter was dated in 2019; only one writer indicated he believed Applicant's clearance was revoked as a result of a "self-reported violation of his security agreement." None of the references stated their knowledge about the child pornography allegations against Applicant.

At his hearing, Applicant presented three favorable reference letters, recently dated, from friends and a colleague. (AE I and K) None of the references state with specificity their actual knowledge of the SOR allegations.

Based on the record evidence, only Applicant's wife seems to be aware of the reasons behind Applicant's clearance revocation by the Agency in 2016 – his involvement with child pornography. It is not clear whether she is aware of the pending SOR allegations or the totality of Applicant's criminal behavior.

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 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.

Applicant was diagnosed with a “Pedophilic Disorder, Nonexclusive Type, Sexually Attracted to Females” three times: in 2014 by an Agency psychologist (GE 4; The evaluation report is not included in the evidence, but Applicant commented on the diagnosis.); in 2018 (AE D) and 2021 (AE G), by Applicant’s treating psychologist, Dr. C; and in 2020 by a CAF retained psychologist, Dr. W. (GE 13)

Dr. C’s evaluations are generally favorable to Applicant. She believed that at the time of his discharge, he “presented with good insight and judgment,” and therapy was no longer necessary. She lauded Applicant for maintaining his abstinence from viewing child pornography entirely during his course of therapy, with the exception of a relapse in June 2015. She also commended him for voluntarily disclosing his sexual proclivities to family and some friends, and about the support he received from family and friends in his efforts towards abstinence and controlling his sexual urges. She also commended him for doing well after his discharge in 2018.

Dr. W, on the other hand, concluded that Applicant “presents with a condition (Pedophilic Disorder) that could pose a significant risk to his judgment, reliability or

trustworthiness concerning classified information. In her opinion, Applicant's prognosis is questionable.

In my decision, I have carefully weighed both of Dr. C's evaluations and Applicant's treatment record, as well as Dr. W's psychological evaluation and all of the record evidence. Dr. C's evaluations deserve less weight. The evidence fails to show that she was aware of the full breath and extent of Applicant's criminal behavior (searching, downloading, and viewing child pornography) – the frequency of it, and his relapses. Dr. C may also be less objective than Dr. W as she was his treating psychologist, and Dr. W was employed by the government to provide an objective diagnosis and prognosis.

AG ¶¶ 28(a) and (b) are applicable in this case:

(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; and

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, and trustworthiness.

Conditions that could mitigate the psychological conditions security concerns are provided under AG ¶ 29. The following are potentially applicable:

(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 shows indications of emotional instability; and

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

The mitigating weight of Dr. C's psychological evaluation is reduced because Applicant was not candid with her when he failed to disclose the full extent of his criminal sexual behavior. He only discussed with Dr. C one relapse after 2015 that occurred in February 2016 (GE 12). He admitted he relapsed several times between 2015 and 2018, the last relapse occurring shortly before he was discharged from treatment in November 2018. Applicant also never told his psychologist of his practice of reading erotic textual stories involving children. There is no information in his therapy records or in Dr. C's evaluations showing that she was aware of his practice of reading erotic textual stories involving children. His reading of such stories may have increased his desire for a sexual relationship with a child or to return to viewing child pornography.

Considering the evidence as a whole, I find that none of the above mitigating conditions are established. He failed to mitigate the psychological conditions security concerns.

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 Pedophilic Disorder. He has deliberately searched for, downloaded, stored on his computers, and viewed child pornography multiple times between 2011 and at least 2017. He feels shame and anxiety associated with his child pornography sexual predilections and he does not want his sexual behavior to be discovered by others. He knew possession of child pornography was wrong, and he did it anyway.

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 deliberately viewed and possessed child pornography many times between 2011 and until at least 2017. The sexual behavior of a criminal nature is established by the record evidence. He engaged in a pattern of compulsive, self-destructive, or high-risk sexual behavior that he was unable to stop, and it causes him to be vulnerable to coercion, exploitation, or duress. AG ¶¶ 13(a) and (c) are applicable to this case. AG ¶ 13(b) is not established because he is able to stop viewing and possessing child pornography; however, there is a lingering concern that he may choose to resume possession of child pornography because of his strong sexual attraction to children.

Applicant has been trying to stop his criminal behavior. He sought counseling and therapy to control his depression, anxiety, and his child pornography addiction. According to Dr. C, Applicant is progressing with his counseling and therapy.

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(a) is not raised by the evidence and it is not applicable.

AG ¶ 14(b) is not applicable because Applicant's sexual behavior of concern is recent and it occurred frequently. It is not clear from the evidence submitted whether Applicant will refrain from possessing child pornography in the future. I find that his criminal sexual behavior is likely to recur, and it does cast doubt on Applicant's current reliability, trustworthiness, or judgment.

AG ¶ 14(c) is not applicable because Applicant's sexual behavior continues to be a basis for coercion, exploitation, or duress.

AG ¶ 14(d) is not applicable. The children he viewed engaging in sexual behavior are too young to consent to his viewing of their pictures. Moreover, many of the children were likely coerced into engaging in the sexual conduct.

For the same reasons discussed under the Guideline I mitigating conditions, incorporated herein, AG ¶ 14(e) is applicable, but does not mitigate the security concerns. Guideline D security concerns are not mitigated.

The SOR ¶ 2.b. alleged and Applicant admitted that he currently reads erotic textual stories involving children. The Government failed to establish that such behavior is a criminal offense under Federal or state law. As a general principle, the First Amendment bars the government from dictating what we see, read, or speak. Although freedom of speech has its limits; it does not embrace certain categories of speech, including defamation, incitement, obscenity, and pornography produced with real children." *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 246-47 (2002). I find this allegation for Applicant.

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 Pedophilic Disorder. He engaged in sexual behavior of a compulsive nature. He sought, downloaded, stored, and viewed child pornography multiple times between 2011 and at least 2017. He feels significant shame

and anxiety associated with his child pornography sexual predilection; and does not want his sexual behavior to be discovered by others. Applicant's behavior raises the following disqualifying condition under AG ¶ 16:

(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 establishes AG ¶ 16(e)(1), requiring additional inquiry about the possible applicability of the mitigating conditions. I considered the following mitigating condition set forth by AG ¶ 17 as partially raised by the evidence:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(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.

AG ¶ 17(c) is not applicable. Possession of child pornography is a serious offense. It is illegal under federal law (18 U.S.C. § 2252) to produce, distribute, receive or possess any child pornography. When one knowingly views an image of child pornography on a computer, one is criminally culpable for possession of the image, even if it is deleted without saving it on the computer. A person who is convicted of knowingly possessing child pornography can be sentenced up to 10 years in prison or up to 20 years in prison if the minor depicted in the image is under the age of twelve.

For the same reasons discussed above in the discussion of Guidelines I and D mitigating conditions, incorporated herein, I find that AG ¶¶ 17(d) and (e) are partially applicable, but do not fully mitigate the security concerns. Personal conduct security concerns are not 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, 41, has been working for federal contractors since 2003, and for his current employer and clearance sponsor since around March 2016. He was granted clearance eligibility with SCI access in 2005.

Applicant's references attested to his professionalism, skills, knowledge, leadership, and noted that he is considered an exceptional employee. I considered that Applicant sought mental health treatment starting in 2014, and continued his treatment to November 2018, improving his condition. Notwithstanding, Applicant's evidence is insufficient to mitigate the security concerns.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. Unmitigated psychological conditions, sexual behavior, and personal conduct security concerns lead me to conclude that grant of a security clearance to Applicant is not warranted at this time.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. Psychological conditions, sexual behavior, and personal conduct security concerns are not mitigated. Clearance is denied.

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: Subparagraph 1.a:	AGAINST APPLICANT Against Applicant
Paragraph 2, Guideline D: Subparagraph 2.a: Subparagraph 2.b:	AGAINST APPLICANT Against Applicant For Applicant
Paragraph 3, Guideline E: Subparagraph 3.a:	AGAINST APPLICANT Against Applicant

Conclusion

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

JUAN J. RIVERA
Administrative Judge