



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



In the matter of:)
)
-----) ISCR Case No. 21-01716
)
Applicant for Security Clearance)

Appearances

For Government: Jeffrey Kent, Esq., Department Counsel
For Applicant: Jacalyn Crecelius, Esq.

03/31/2022

Decision

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant did not mitigate financial consideration concerns. He mitigated drug involvement, criminal conduct, and personal conduct concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

Statement of the Case

On September 10, 2021, the Department of Defense (DoD) Consolidated Central Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations, personal conduct, and drug involvement guidelines the DoD could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DoD Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for*

Access to Classified Information or Eligibility to Hold a Sensitive Position (AGs), effective June 8, 2017.

Applicant responded to the SOR in October 4, 2021, and requested a hearing. This case was assigned to me on November 30, 2021. A hearing was scheduled for January 5, 2022, via TEAMS, and was heard on the scheduled date. At the hearing, the Government's case consisted of seven exhibits. (GEs 1-7) Applicant relied on 15 exhibits (AEs A-P) and one witness (himself). The transcript (Tr.) was received on January 12, 2022.

Procedural Issues

Prior to the opening of the hearing, the Government amended the SOR to add drug involvement, criminal conduct, and personal conduct allegations. The Government amended the SOR a second time before the opening of the hearing to add some clerical changes without making any substantive changes. The amendments were sustained over Applicant's challenges.

Before the close of the hearing, Applicant requested the record be kept open to permit him the opportunity to supplement the record with payments and payment plans. For good cause shown, Applicant was granted 21 calendar days to supplement the record. Department Counsel was afforded three days to respond.

Within the time permitted, Applicant supplemented the record with documentation of a new payment plan re: SOR ¶ 1.b; first payments on his agreed individual payment plans covering SOR ¶¶ 1.b, 1.d-1.h, and 1.j; settlement offers covering SOR ¶¶ 1.i and 1.p, and an updated payment plan re: SOR ¶ 1.p. Applicant's post-hearing submissions were admitted without objections as AEs Q-BB.

Summary of Pleadings

Under Guideline F of the SOR (as amended in a first and second SOR), Applicant accumulated (a) filed for Chapter 7 bankruptcy relief in March 2015 and was discharged in bankruptcy in June 2015 and (b) accumulated 15 delinquent post-bankruptcy medical and consumer debts exceeding \$30,000. Allegedly, these debts raised post-bankruptcy discharge concern that have not been resolved.

Under Guideline H, Applicant allegedly was found guilty of marijuana possession-civil in November 2020. Allegedly, the civil conviction arose out of an arrest in July 2020. Under Guideline J, Applicant allegedly was arrested in July 2020 for point/brandishing of a firearm in his state of residence.

Under Guideline E, Applicant allegedly falsified his electronic questionnaire for investigations processing (e-QIP) of February 2021, by failing to disclose his civil conviction of November 2020 for possession of marijuana.

In his response to the SOR, Applicant admitted each of the allegations covered by Guideline F with explanations. He claimed he filed his Chapter 7 bankruptcy petition in March 2015 for the purpose of fixing his financial situation with his first spouse and give himself a fresh start. He also claimed that he accumulated additional debts while trying to keep his private transportation business operating during an emergent COVID-19 pandemic. Applicant further claimed that he is doing all he can do to repay his creditors (some related to his unsuccessful business venture) with the funds available to him.

Addressing the allegations covered by Guideline H, Applicant admitted the allegations with explanations. He claimed he paid the imposed \$25 civil fine on his July 2020 civil arrest for possession of marijuana found in his vehicle. He claimed he has never had a recurrent marijuana possession arrest.

Responding to the SOR allegations covered by Guideline J, Applicant admitted his July 2020 arrest for point/brandishing a firearm in his state of residence. He claimed he felt threatened by the driver of a vehicle that pulled up beside him, and moved his handgun on the seat of his vehicle, in an act of self-defense. He claimed he was arrested by police shortly thereafter. Appearing in court, he claimed the charges were dismissed.

Responding to the falsification allegations covered by Guideline E, Applicant denied the allegations with explanations and clarifications. He claimed his drug-possession citation omission in his February 2021 e-QIP was an oversight and not the result of any intent on his part to withhold the requested information

Applicant added whole-person explanations as well in his response to the SOR. He claimed to have benefitted from his experiences in the Marine Corps and is a reliable and trustworthy person with good judgment. He further claimed that the incidents covered by Guideline H and J pose no threat to national security.

Findings of Fact

Applicant is a 31-year-old employee of a defense contractor who is sponsoring him for a security clearance. Applicant admitted the allegations in the SOR with explanations and clarifications pertaining to the financial, drug involvement, and firearm pointing/brandishing allegations, while denying any intent to falsify his e-QIP. pointing and brandishing allegations, while denying any intent to falsify his e-QIP. Findings of fact follow.

Background

Applicant married in January 2009 and divorced in May 2012. (GEs 1 and 7) He has no children from this marriage. He remarried in March 2014 and divorced in April 2017. (GE 1) He has no children from this marriage. Applicant earned a high school diploma in June 2008. (GE 1) He attended college classes at several institutions

between August 2016 and February 2020, but did not earn a degree or diploma. (GE 1) Applicant enlisted in the Marine Corp in July 2008 and served four years of active duty before receiving an honorable discharge in July 2012. (GE 1 and AE D)

Since August 2021, Applicant has been employed on a part-time basis as an aviation supply specialist while waiting for approval of his security clearance. (Tr. 59-60) His employer of record since December 2020 continues to sponsor him as a supply distribution specialist contract. (GE 1; Tr. 59-60) Between November 2018 and December 2020, he operated his own medical transportation company as a limited liability corporation (LLC). (GE 1; Tr. 36-37) Previously, he worked for other employers following his military discharge. Applicant has held a security clearance since he was 19 years of age and enlisted in the Marine Corps. (Tr. 27)

Applicant's finances

Faced with delinquent accounts he could no longer safely manage, Applicant filed for Chapter 7 bankruptcy protection in March 2015. (GE 3) His petition included no real property schedules, but did include a schedule of personal property totaling \$26,650. (GE 3) Creditors holding secured claims exceeded \$36,000, and creditors holding non-secured claims exceeded \$124,000. (GE 3; Tr. 69)

Applicant acknowledged his receipt of on-line counseling in his petition without detailing what his counseling included. (GE 3; Tr. 70) He reported net monthly income of \$1,968 and monthly expenses of \$1,425. (GE 3)

Looking forward to a fresh start following his June 2015 bankruptcy discharge, Applicant encountered some stiff financial winds from a difficult divorce in April 2017 and accumulated additional delinquent debts between April 2017 and 2019. (GEs 2 and 7; Tr. 70) Altogether, he accumulated 15 delinquent debts exceeding \$30,000. (GEs 2 and 7) The SOR covers delinquent student loan, medical, and consumer debts.

Of Applicant's listed delinquent debts, he has since paid off three debts as follows: SOR ¶¶ 1.c (for \$1,367), 1.k (for \$250), and 1.m (for \$181). (AEs 1 and K; Tr. 32, 34) Additionally, he arranged monthly payment plans with SOR creditors 1.b (\$115 a month), 1.d (\$45 a month), 1.e (\$75 a month), 1.f (\$92 a month), 1.g (\$41 a month), and 1.h/1.j \$69 a month. (AEs Q-Z; tr. 32-36, 71-76) With these payment plans, Applicant has made first payments and in several cases second payments, but for the most part his payment plans are in the early phases and are expected to continue for many months without any definitive track records to work from.

In two cases, Applicant has received offers of settlement, for which he has yet to respond: SOR creditor ¶ 1.i (for a lump sum payment of \$200) and SOR creditor ¶ 1.p (for a lump sum payment of \$2,500). (AEs AA and BB) Whether Applicant has or will have the available resources to meet the offer terms of these creditors in the foreseeable future is unclear.

In addition to the on-line financial counseling Applicant certified to in his Chapter 7 bankruptcy petition in 2015, he has received financial counseling from a non-profit counseling firm in December 2021. (AE L; Tr. 83-84) Available counseling services included budget analysis, customizing action planning, and recovery options or alternatives regarding his debts. (AE L) How much he benefitted from his financial counseling services cannot be assessed from the counseling plan itself without more input from Applicant. Concrete benefits gained from Applicant's counseling is still incomplete. Applicant's plans call for him to pay \$500 a month on his outstanding SOR debts and work on them until they are fully paid. (Tr. 87-88, 93-94, 106) Currently, he earns between \$2,700 and \$3,200 a month from his temporary employer. (AE L; Tr. 84-85) While operating his own company (2018-2020), he earned very little. (Tr. 64-65)

Applicant's involvement with illegal drugs

In July 2020, Applicant was stopped by police and cited for marijuana possession-civil after searching officers found a package of marijuana in Applicant's vehicle. (GE 4; Tr. 38-39, 42-44) The marijuana had been gifted to him by his sister to help relieve the stress he was experiencing from the sudden and unexpected loss of his aunt in a traffic accident. (Tr. 42-44)

Applicant assured he never opened the gifted bag containing the marijuana and was unaware of the bag's contents when he was stopped and searched by police. (Tr. 97-98) Appearing in court in November 2020 in a state district court in the state of his residence, Applicant was fined \$25. (GE 4) Applicant sees his sister monthly. (Tr. 79). She is a 100 per cent disabled veteran and self-medicates with marijuana; although she never uses marijuana in Applicant's presence. (Tr. 79, 90)

Applicant denies using marijuana before or after his marijuana possession arrest and is corroborated in part by negative drug test results from a non-randomized drug test he submitted to in December 2021. (AE M; Tr. 45) The record does not contain any probative evidence of any prior use of illegal drugs (marijuana included) before his marijuana possession citation in November 2020. Supporting Applicant's assurances of future abstinence from all illegal drug use is a statement of intent he signed in December 2021. (AE A; Tr. 45-46)

In his statement he assured under oath not to misuse substances in the future (inclusive of illegal drugs and legal prescription drugs without a prescription), at the risk of an automatic revocation of his security clearance in the event of a violation of his oath. (AE A) Applicant's assurances are credible and accepted.

Applicant's firearm pointing/brandishing arrest

After being stopped by police in July 2020 and searched, Applicant was arrested for pointing and brandishing a firearm at an individual (presumably a police officer from the arrest report) who had pulled up beside Applicant and reported his pointing and brandishing his firearm at him. (GE 5; Tr. 47-49, 53-54, 77-78) Upon appearing in court

in November 2020 to face the firearm charges, Applicant was advised that the charges were *nolle prossed* after the prosecution's principal witness failed to show up for the trial. (GE 5; Tr. 50-51, 95-96)

At the time of his arrest, Applicant was licensed in his state of residence to carry a firearm. (AE C; Tr. 51-52) He has never before or since been cited or arrested for a weapons violation. (Tr. 54-55)

Applicant's e-QIP omission

Asked to complete an e-QIP in February 2021, Applicant omitted his July 2020 marijuana possession arrest. (GE 1) He attributed his omission to a good faith lapse in memory. (Tr. 81) When interviewed by an investigator from the Office of Personnel Management (OPM) several months later, he never mentioned the marijuana possession incident either and was not confronted by the investigator. (GE 7; Tr. 82)

Applicant has no record of marijuana involvement, either before or after his July 2020 citation. He displayed both honesty and candor throughout the hearing process. His memory lapse in disclosing his marijuana possession incident in the e-QIP he completed in February 2021 can be attributable in part to his never opening the gifted bag from his sister containing the marijuana and his being unaware of the bag's contents. His explanations and lack of any prior marijuana use or involvement support a finding that his omission reflects a credible mistake or inadvertence on his part and is accepted. (GEs 1 and 7)

Considering all of the circumstances of Applicant's 2021 e-QIP omission of his marijuana possession citation, inferences are warranted that the omission does not reflect any knowing and willful intent to falsify his e-QIP. Inferences that the allegations of falsification are unsubstantiated are warranted.

Endorsements and awards

Applicant is well regarded by friends and colleagues who have worked with him. (AE G) Uniformly, they consider him to be honest and trustworthy. Awards and letters of appreciation for his Marine Corp service are considerable and include a Good Conduct Medal, a Navy Achievement Medal, Letters of Appreciation, a Meritorious Mast in Recognition of Outstanding Service, a Presidential Service Certificate, and recognition as an Honor Graduate of the Marine Corps. (AE E)

Policies

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." As Commander in Chief, "the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527.

Eligibility for access to classified information may only be granted “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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual’s reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant’s life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant’s conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

Financial Considerations

The Concern: Failure or inability 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 or 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 acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

Drug Involvement

The Concern: The illegal use of controlled substances, to include the misuse of prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

Criminal Conduct

The Concern: Criminal activity creates doubt about a person's judgment, reliability, trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations. AG ¶ 30.

Personal Conduct

The Concern: 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 national security investigative or adjudicative processes. . . . AG ¶ 15.

Burdens of Proof

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours.

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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. See *also* Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Security concerns are raised over Applicant’s history of financial problems associated with his Chapter 7 bankruptcy petition and discharge in 2015 and recurring problems with paying debts over the ensuing years years attributable to stress-related circumstances involving the loss of his daunt and his unsuccessful business venture spanning 2018 and 2020. Additional security concerns are raised over Applicant’s marijuana possession citation and firearm arrest in July 2020, and his omission of his marijuana possession citation in the e-QIP he completed in February 2021.

Financial concerns

Applicant’s Chapter 7 bankruptcy discharge in 2015 that has been followed by the accumulation of additional debt delinquencies warrant the application of two of the disqualifying conditions (DC) of the financial consideration guidelines: DC ¶¶ 19(a),

“inability to satisfy debts”; and 19(c), “a history of not meeting financial obligation.” Each of these DCs apply to Applicant’s situation.

Applicant’s admitted debts with explanations and clarifications require no independent proof to substantiate them. See Directive 5220.6 at E3.1.1.14; *McCormick on Evidence* § 262 (6th ed. 2006). His admitted debts are fully documented and create judgment issues as well over the management of his finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004). Although he qualified his admissions with explanations, his admissions can be weighed along with other evidence developed during the hearing.

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder’s demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving debt delinquencies are critical to an assessment of an applicant’s trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015).

Applicant’s cited financial difficulties associated with his Chapter 7 bankruptcy petition and discharge and recurrent delinquent debt accruals preclude him from taking advantage of most of the potentially available extenuating and mitigating benefits. While some extenuating benefit to Applicant is warranted based on his reported struggles with his finances following the death of his aunt and unsuccessful business venture, personal obligations for his owed student loan, consumer, and medical debts remained outstanding and unresolved following his return to full-time employment in December 2020, and required his earnest attention.

Application of mitigating condition MC ¶ 20(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,” partially applies. While Applicant is able to fulfill the first prong of MC ¶ 20(b) with his cited unsuccessful business venture, his failure to satisfy the second prong (“acted responsibly under the circumstances”) of MC 20(b) is conjunctive in its application and is the key prong that prevents him from gaining any more than limited application of MC 20(b).

In evaluating Guideline F cases, the Appeal Board has stressed the importance of a “meaningful track record” that includes evidence of actual debt reduction through the voluntary payment of accrued debts. ISCR case No. 07-06482 at 2-3 (App. Bd. May 21, 2008) In Applicant’s case, he has failed to take sufficient steps to address his

delinquent debts before the issuance of the SOR in September 2021. His documented efforts to date, while encouraging, lack a payment track record and do not reflect enough progress in restoring his finances to safe debt management levels.

The Appeal Board has consistently imposed evidentiary burdens on applicants to provide documentation corroborating actions taken to resolve financial problems, whether the issues relate to taxes, consumer, medical, or other debts and accounts. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020).

While Applicant is credited with making some payoffs of his SOR-listed creditors and with arranging payment plans with others, his repayment plans will require considerable time and effort to achieve material results. Absent more evidence of voluntary payment initiatives on Applicant's part to discharge his documented delinquent debts with the aid of financial counseling, only partial application of MC ¶ 20(d), "the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts," and MC ¶ 20(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," are available to Applicant at this time. nor any of the remaining mitigating conditions are available to Applicant at this time.

Drug involvement concerns

Applicant's admitted marijuana possession citation raises initial security concerns over risks of recurrence as well as judgment issues. On the strength of the evidence presented, two disqualifying conditions (DCs) of the AGs for drug involvement apply to Applicant's situation: DC ¶¶ 25(a), "any substance misuse," and 25(c), "illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of illegal drugs or drug paraphernalia."

To his credit, Applicant has committed to sustained abstinence from all involvement in illegal drugs and non-prescribed prescription drugs. His lone marijuana possession citation represents an isolated incident that has not been repeated. Neither before nor since his marijuana possession citation in July 2020 has he used or possessed any illegal drugs (marijuana included) or prescription drugs without a prescription. His assurances are corroborated by a recent non-randomized drug test that produce negative results. Applicant has remained abstinent from illegal and non-prescribed prescription drugs and exhibits no visible signs or indications of succumbing to any risks or pressures he might encounter to return to illegal drug use in the foreseeable future.

Applicant's assurances of sustained abstinence from illegal drugs (inclusive of marijuana) are encouraging. And, his efforts warrant application of one mitigating condition (MCs) of the drug involvement guideline: MC ¶ 26(b), "the individual acknowledges his or her drug-involvement and substance misuse, provides evidence of

actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to, (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; and (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.”

Without more probative evidence of more recent marijuana use or possession by Applicant since his last positive drug test in October 2013, Applicant is entitled to favorable conclusions of sustained abstinence for the past eight years. His negative drug test (although not randomized along with stated intent not to use illegal drugs in the future, and favorable character references are enough to facilitate safe predictions that he is no longer a recurrence risk.

Criminal conduct concerns

Security concerns related to Applicant’s firearm arrest in July 2020 is an isolated misdemeanor incident that was *nolle prossed* at Applicant’s court appearance in November 2020. At the time, Applicant had a permit to carry a firearm, and the firearm was openly displayed on his seat when surprised by the stranger (presumed police officer) who pulled along-side of him. There have been no recurrent offenses (before or after the 2020 incident), and the risks of recurrence are negligible. Favorable conclusions are warranted.

Personal conduct concerns

Security concerns are raised over Applicant’s 2021 e-QIP omissions of his 2020 marijuana possession citation and imposed \$25 fine. Applicant’s omission was inadvertent and did not involve any intent to withhold important background information from the Government. Allegations of falsification of Applicant’s e-QIP by omitting his marijuana possession citation are unsubstantiated.

Whole-person assessment

Whole-person assessment of Applicant’s clearance eligibility requires consideration of whether his finances are fully compatible with minimum standards for holding a clearance. While Applicant is entitled to credit for his work in the defense industry and making some progress in addressing his debt delinquencies, his efforts are not enough at this time to overcome her failures to make more concerted earlier efforts to resolve accumulated student loan, medical, and consumer debts.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are not mitigated. Drug involvement, criminal, and personal conduct concerns are mitigated. Eligibility for access to classified information 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:

Guideline F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.a-1.d, 1.f-1.j:	Against Applicant
Subparagraphs 1.e, 1.k-1.m	For Applicant

Guideline H (DRUG INVOLVEMENT): FOR APPLICANT

Subparagraph 2.a:	For Applicant
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Guideline J (CRIMINAL CONDUCT): FOR APPLICANT

Subparagraph 3.a:	For Applicant
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Guideline E (PERSONAL CONDUCT): FOR APPLICANT

Subparagraph 4.a;	For Applicant
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Conclusion

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

Roger C. Wesley
Administrative Judge