



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



In the matter of:)
)
) ISCR Case No. 20-00346
)
Applicant for Security Clearance)

Appearances

For Government: Andre Gregorian, Esq., Department Counsel
For Applicant: Carl Marrone, Esq.

04/21/2022

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Guideline J, criminal conduct, Guideline G, alcohol consumption, and Guideline E, personal conduct, security concerns Eligibility for access to classified information is granted.

Statement of the Case

On November 3, 2020, the Defense Counterintelligence and Security Agency (DCSA) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline J, criminal conduct, Guideline G, alcohol consumption, and Guideline E, personal conduct. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective on June 8, 2017.

Applicant answered the SOR on December 22, 2020, and requested a hearing before an administrative judge. The case was assigned to me on February 7, 2022. After

coordinating with Applicant's attorney, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on February 10, 2022, scheduling the hearing for February 24, 2022, via Microsoft Teams. Applicant waived the 15-day notice requirement (Hearing Exhibit I). I convened the hearing as scheduled. The Government offered exhibits (GE) 1 through 7. Applicant and five witnesses testified on his behalf. He offered Applicant Exhibits (AE) A through BB. There were no objections and all exhibits were admitted into evidence. DOHA received the hearing transcript on March 3, 2022.

Findings of Fact

Applicant admitted all of the SOR allegations with explanations. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 61 years old. He is a college graduate. He is twice divorced and married to his current wife since 2002. He has one adult biological child and two adult stepdaughters. He has five grandchildren. The grandchildren live close to him and his wife, and they provide support and care for them as needed. They see the grandchildren several times a week. Applicant is a father figure as there are no other males in the family. (Tr. 21-25, 79-80)

In January 2019, Applicant was arrested for driving under the influence of alcohol (DUI). The breathalyzer registered .10%. He cooperated with police and was remorseful for his conduct. Applicant was on a business trip and was out to dinner with his boss. He admitted he had more drinks than he should have had. He has diabetes and did not take his insulin that day. He testified that he did not feel impaired, but he used poor judgment in driving. He said he should have known better. He preaches to his children never to drink and drive and felt like a hypocrite. Prior to the incident, he occasionally had alcoholic drinks on a special occasion such as his birthday. His last drink was on his last birthday in July. Due to his diabetes he rarely consumes alcohol because of its negative impact. He credibly testified this was a one-time isolated incident. He acknowledged it was a terrible mistake. (Tr. 73-77, 83, 137-145)

The charge was reduced to reckless driving. Applicant completed a MADD victim impact panel as part of his sentence and paid a fine. The charge was expunged from his record in September 2019. (AE N, O, P, Q, R)

In September 2018, Applicant was arrested and charged with felony domestic battery by strangulation. SOR ¶ 1.a alleged that he grabbed his stepdaughter (SD) by the neck after she kicked and attempted to strike him.

Applicant testified that he had loaned SD money and she came to his house uninvited. She was agitated and yelling at him. He asked her to pay the money she owed him that was due that day. She refused and yelled profanity at him. According to Applicant, she then kned him in the groin and punched him several times in the chest, neck and throat area. They engaged in a mutual altercation, shoving each other. She

hooked her finger in his mouth and her finger got cut, likely from his teeth biting her. She took a bottle that was accessible and hit him on the head. She then called the police, who responded about an hour later, and Applicant was arrested and taken to jail. (Tr. 35-47; 129-137, 157-159.)

The police report showed that SD made a sworn statement saying she had a verbal altercation with Applicant and then he attacked her by pushing her, taking hold of her throat, held her against a doorway, and he placed her finger in his mouth and bit it. (AE E)

SD provided a written statement in support of Applicant regarding the incident (and also a 2013 incident). She stated that she provoked the argument and “flew off the handle” and the name calling began. (AE F) She stated:

I was the one who provoked the incident by first slapping him and then kicking him in the groin. He was defending himself and I persisted which led to the incident where we both grabbed one another. I grabbed him and he grabbed me. As we were pushing each other away we both ended up grabbing each other by the throat. I tried to hook him in the mouth where my finger became cut. I also hit him in the back of the head with a vase/bottle. (AE F)

SD further stated that it was a horrible and tragic event that led to Applicant’s arrest. She acted immaturely and deeply regrets the incident. She discussed the incident with the State attorney and the charges were dropped against Applicant. She described Applicant as a kind and loving man toward his children and grandchildren. She stated this was an isolated incident and since the altercation she and her family have developed a non-adversarial communication system to discuss issues. She and her stepfather are on good terms and are embarrassed and ashamed about their past behavior. They love and support each other. After the incident they apologized to each other. (AE F)

SD testified at the hearing. She refused to answer questions that raised issues about her veracity based on the sworn statement she provided to police, her written statement, and her testimony. I did not find her credible. (Tr. 191)

SD testified that Applicant has been a father figure to her for the past 20 years. She has been diagnosed with depression and said “I basically am suicidal.” (Tr. 172) She stated that she was responsible for starting the 2018 incident, it was her fault, and it was not fair to him. She did not believe he bit her finger on purpose. She had the charges dropped because it was not fair to Applicant when she was the one who was wrong. She no longer needs Applicant’s help financially. (Tr. 172-212)

Applicant admitted it was an emotional incident. He took responsibility for his conduct. In October 2018, the State Attorney declined to prosecute the case after considering SD’s statement, statements of witnesses, and the police report. The charges were dropped. (Tr. 35-47; AE F)

In December 2013, Applicant was arrested and charged with aggravated assault with a deadly weapon. It was alleged he was engaged in a physical fight with his son-in-law (SD's husband) after the son-in-law attempted to strike Applicant. The son-in-law alleged Applicant wielded a knife during the altercation. (GE 3, 4, 5; AE G)

Applicant testified that SD was married to S at the time of the incident. SD has two children from another marriage. On the birth certificate of her third child, S is listed as the father, but he is not the biological father. This child was three years old at the time of the 2013 incident. SD called Applicant because she was afraid of S. He was attacking her and she was concerned for the safety of the children. Applicant described S as unpredictable due to his use of illegal drugs, including methamphetamine and alcohol. Applicant drove to SD and S's house. He did not call the police because he said the police have never done anything in the past when SD called. He admitted he did not think to call the police, but was acting on instinct. When he arrived at the house, Applicant observed S and SD tussling. He asked S what was the matter with him. Then S took a swing at him and the two began to fight. There is conflicting testimony and in written statements, SD said she was being attacked by S and was on the ground when Applicant arrived. At some point, Applicant and S stopped fighting, and S called the police. Applicant stated that S got the worst of it with a cut on his face and mouth. Applicant stated he was defending himself. He then went outside and waited for the police to arrive. Applicant was arrested and put in jail. (Tr. 47-60 118-126, 160-163; AE G)

S claimed that Applicant arrived at the house and charged him unprovoked, threw him against the wall, and held a pocket knife to his throat. Applicant denied a knife was involved and none was retrieved as evidence. He said he does not own a pocket knife. In January 2014, the State Attorney determined he would not file an information on the charges. (Tr. 47-60; AE H)

SD testified that she was being attacked by S and someone called the police. Applicant arrived and pulled S off of her and started to defend her. She did not see a knife during the altercation. She stated that S had a drug problem and was in and out of recovery. He was abusive and has been in other relationships where he was abusive. She had two protective injunctions against him. (Tr. 178-186)

Applicant admitted he could have done something to deescalate the situation by removing SD from the house and calling the police. Through counseling, he is more aware of approaching a volatile situation with the premise of doing the right thing. S provided a statement in his motion to dissolve an injunction for protection dated January 29, 2014. His statement said that the incident was a misunderstanding with his "soon to be ex-wife." He said he did not want the incident to impact Applicant's job because he pays all of the bills and he didn't want the rest of the family to suffer. He stated he was sorry and never intended to waste anyone's time. A copy of a mug shot and booking record for a later May 2019 arrest of S for a domestic violence violation; controlled substance – possession without a prescription; and possession of drug paraphernalia was provided, presumably to show S's character, but also to show the pose he struck for the photo. (Tr. 81-84, 126-128; AE H, BB)

In 2004, Applicant was arrested and charged with battery-domestic violence. The SOR alleged he struck his wife after she struck him during an argument. Although Applicant admitted the allegation in his SOR answer, at his hearing, he had no recollection of the incident. In his 2010 and 2011 interview with a government investigator, he disclosed his wife hit him and he hit her back. She called the police. The charges were dropped by his wife and the court. He attended a battered women's course at a family counseling center one night a week for about two months. This was not court ordered. At his hearing, he denied he hit his wife. (Tr. 62-63, 106; GE 6, AE I)

In about May 2002, Applicant was arrested and charged with aggravated assault with a weapon. He was arrested after a motorist described a vehicle matching Applicant's vehicle and identified Applicant in a police line-up as the person who pointed the firearm at him from another vehicle. Applicant believes he was falsely identified. Applicant denied he owned a firearm and none was found in his vehicle or retrieved from his house as evidence. He denied that he was involved in this altercation. Applicant and his wife were moving that day and were together. He testified that he had lent his vehicle to his brother-in-law, who is similar in stature. He told this to his lawyer. His brother-in-law was never questioned. Applicant explained that his lawyer told him that he had a 50-50 chance of winning or losing the case, it would be expensive, and since he had a security clearance to not take any chances and plead no contest, which he did. The charge was nolle prosequi, and he participated in a pretrial diversion program. He was required to complete 50 hours of community service. The charge was dismissed in 2004. (Tr. 63-71, 96-106, 163; GE 4, 6; AE J)

In 1997, Applicant was charged with domestic battery. He could not recall the incident. The offense is not listed on Applicant's FBI report. Applicant admitted this allegation in his answer to the SOR. Court records show the offense was nolle prosequi in October 2001. (Tr. 71-73, 95-96; AE K)

More than ten years ago, Applicant participated in counseling associated with stress and completed the program. The facility does not retain records past ten years and he could not recall the exact dates. He attended anger management classes in approximately 2004-2005 and marriage counseling during the same period of time. He indicated he gained valuable insight from the counseling. (Tr. 113-117; GE 3)

In November 2020, Applicant participated in an anger management assessment. The assessment was done by a psychologist, who holds a Ph.D. and is a licensed marital and family therapist. Applicant stated that after receiving the SOR it prompted him to reach out to have the assessment. He did it on his own volition. The psychologist did not have information about his past domestic violence allegations from Applicant's record, and Applicant did not provide it to her. Her opinion is based solely on psychological tests she had Applicant complete. Applicant had high scores in areas that indicate a strong understanding and mastery of different skills sets, some of which manage and control anger, stress, and aggressive or disruptive behavior. He showed a low score in areas indicating little tendency to behave in an attacking manner and he had good boundary skills with others. His scores reflected he was satisfied with his behavior and had a lower

level of motivation to change. The psychologist's recommendation was: No further anger management treatment recommended at this time. (Tr. 117, 153-155; AE M)

Applicant saw a mental health therapist (JPD) in November 2020 who specializes in family counseling. JPD testified and was told by Applicant he needed an evaluation and letter for his security clearance issues. JPD found Applicant sincere, and they discussed Applicant's life traumas and coping mechanism. JPD was aware of some of Applicant's past issues, but not all of them. He was unaware of the 2018 allegations or the more dated allegations. Applicant explained the reason he provided the 2013 incident was because that was the one he remembered. Applicant did not disclose the other SOR allegations. JPD and Applicant had approximately eight counseling sessions. JPD opined that Applicant had the tools to make good decisions and he accepted responsibility for his actions. Applicant was provided tools for looking at things from a different perspective and coping mechanisms. JPD did not provide a formal diagnosis. He believed Applicant to be sincere and trusted him to make good decisions. (Tr. 145-153; 213-232; AE L)

Since the last domestic violence incident in 2018, Applicant said there have been family changes. LM is divorced from S, which caused great strife within the family. He does not visit and is not part of their lives. Applicant has had a more active positive role in helping raise his grandchildren. Since being diagnosed with diabetes he is on a strict diet and exercise program. He and his family have taken steps to mitigate and ensure there will be no future incidents and improved their communication skills. (GE 3)

Applicant's Facility Security Officer testified on his behalf. He has known him for a couple years. He has had frequent interaction with Applicant. He has never witnessed any aggressive behavior by Applicant nor has he seen Applicant involved in a security incident. Applicant is honest and reliable. Applicant has advised him of his past arrests. He does not have security concerns about Applicant. He was aware of the SOR allegations. (Tr. 236-246)

Other witnesses testified on Applicant's behalf. They have known him professionally and personally, dating back to 1998. They all had varying degrees of interaction with him, but all knew him very well. Some knew his family. None had concerns about Applicant's past incidents regarding domestic violence. None had ever observed Applicant be aggressive or lose his temper. They have not observed him overindulge in alcohol, nor do they believe he has a problem with alcohol. They did not have a concern about his honesty, integrity or trustworthiness. He has treated others with dignity and respect. He is considered a hard-worker and family-oriented. (Tr. 247-278)

Applicant provided numerous documents to corroborate his outstanding career performance. He provided copies of certificates for awards he has received and training he has completed. (AE S, T, U, V)

Applicant provided numerous character letters that attest that he is professional, trusted, respected, honest, patriotic, and ethical. He takes responsibility for his actions.

He is a person of good character and has integrity, He has an outstanding work ethic.
(AE W, X, Y, Z)

Policies

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision."

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline G: Alcohol Consumption

AG ¶ 21 expresses the security concerns for alcohol consumption:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

AG ¶ 22 describes conditions that could raise a security concern and may be disqualifying. I find the following to be potentially applicable:

(a) alcohol-related incidents away from work, such as driving under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder.

Applicant was arrested in 2019 and charged with DUI. His BAC was .10%. The evidence supports the application of the above disqualifying condition.

The guideline also includes conditions that could mitigate security concerns arising from alcohol consumption. I have considered the following mitigating conditions under AG ¶ 23:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment.

Applicant does not have a history of alcohol abuse. He was arrested once for DUI, in 2019, which was reduced to reckless driving. The offense was expunged from his record. He completed a victim impact course and paid a fine. He acknowledged he made a horrible mistake. He infrequently consumes alcohol. Applicant's conduct is unlikely to recur and it happened under unique circumstances. It does not cast doubt on his current reliability, trustworthiness or good judgment. The above mitigating condition applies.

Guideline J: Criminal Conduct

The security concern for criminal conduct is set out in AG & 30:

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

The guideline notes several conditions that could raise security concerns. I have considered all of the disqualifying conditions under AG ¶ 31, and the following is potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant was arrested and charged five times from 1997 to 2018 on various aggravated assault, battery, domestic violence offenses, and in 2019 for DUI. The above disqualifying condition applies.

The guideline also includes conditions that could mitigate security concerns arising from criminal conduct. The following mitigating conditions under AG ¶ 32 are potentially applicable:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

The evidence confirms that Applicant has been arrested numerous times. The arrests from 1997, 2002 and 2004 are dated, but establish a pattern of criminal conduct when combined with the arrests from 2013, 2018, and 2019.

There is scant evidence regarding the 1997 arrest for engaging in a dispute with his then wife. The battery charge was nolle prosequi in 2001. He is no longer married to her. The 2002 arrest and charge of aggravated battery is for his alleged behavior toward a motorist. Applicant may have had an alibi defense, but he pleaded no contest and accepted a pretrial diversion agreement. He completed the terms and the charge was later dismissed.

Applicant and his wife engaged in a mutual altercation in 2004 and the battery domestic violence charge was dropped. Applicant participated in counseling and attended programs to teach him how to manage his emotional issues. The evidence supports he was successful in doing so and there were no additional incidents involving his wife. Although these were serious charges, it appears for the 1997 and 2004 charges, that both parties bear responsibility in their conduct.

The more recent charges occurred in 2013 and 2018 and both involved LM, Applicant's stepdaughter. Based on her testimony, demeanor, and conduct during the hearing, it is apparent that she can become emotional and escalate situations. I found Applicant's testimony credible in that he went over to SD's house to help her when S became physically aggressive. Applicant was attempting to protect SD and her children. He and S were mutual combatants. It is apparent that Applicant could have handled the situation differently. He took responsibility for his conduct, waited for the police, and the charges were later dropped.

Regarding the 2018 incident, SD took responsibility for starting the fight with Applicant, which quickly got out of control. Her testimony at the hearing contradicted her sworn statement to the police. She refused to answer questions about providing false information. I did not find her credible. I believe Applicant was telling the truth in that she was angry with him because she was overdue on her loan payment, and he questioned her about it. She attacked him and he fought back and protected himself. I believe he bit her finger because she put it in his mouth. I believe both are embarrassed about their conduct and have reconciled. The charges were later dropped because there was insufficient reliable evidence to prosecute it.

It is common in domestic violence cases for the alleged victim to withdraw their complaint or refuse to testify and the charges get dropped. It is also common that sometimes the parties are equally at fault, but only one is arrested. Applicant is not free from fault in the incidents where he was criminally charged, but a review of all of the facts, indicate that he was not the aggressor in the 2013 and 2018 incidents. His last incident of aggression was in 2004 and his reckless driving offense was in 2019. It appears he has done some soul searching and has found better ways to deal with potentially volatile situations. There is considerable evidence as to his good character. It appears he and SD have found more amiable ways to communicate. S is no longer in her life. Applicant has attended counseling. I give some weight to his counseling with JPD because he was provided with tools on handling volatile situations, but it is noted that the therapist was unaware of all of Applicant's past conduct. I am satisfied that Applicant has reflected on his past conduct and has found appropriate tools to use in the future. Despite Applicant's arrest history, I believe it is unlikely he will be involved in similar behavior in the future. I believe there is sufficient evidence of rehabilitation based on a review of Applicant's character evidence and devotion to his job and work performance. The above mitigating conditions apply.

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concerns for personal conduct:

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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other

failure to cooperate with the security clearance process. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I find the following potentially applicable:

(c) credible adverse information in several adjudicative 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 group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

Applicant was charged with DUI and convicted of reckless driving. He was arrested five times from 1997 to 2018, and charged with aggravated assault and battery primarily related to domestic violence raising questions about his conduct and judgment. The above disqualifying conditions apply.

The following mitigating conditions under AG ¶ 17 are potentially applicable to the disqualifying security concerns based on the facts:

(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.

I have addressed the security concerns under Guidelines G and J and the same analysis applies under Guideline E. Applicant's arrest for DUI was an isolated incident,

and I find there are no security concerns regarding his alcohol consumption. Although, he has a history of arrests primarily dealing with domestic violence, I believe the evidence supported that the more recent incidents involved him protecting his stepdaughter and where she was the aggressor. He has acknowledged his behavior, attended counseling and has found a better way to communicate with his family. Sufficient time has passed and I believe future conduct of this nature is unlikely to recur. The above mitigating conditions apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

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

Applicant's past is checkered with arrests for domestic violence. I have considered all of the evidence. I believe Applicant now has the necessary emotional maturity and skills to interact with family members appropriately. He understands the importance of remaining in control when others are not. Although he was not the aggressor in the two more recent instances, he knows that he could have reacted differently. He has been proactive in addressing how to prevent future problems and deescalate a hostile situation. I have considered all of the evidence, and I believe Applicant has met his burden of persuasion. He should be acutely aware that any future misconduct, no matter how small or insignificant, could result in reexamination of his security worthiness. The record evidence leaves me with no questions or doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant mitigated the security concerns arising under Guideline J, criminal conduct, Guideline G, alcohol consumption, and Guideline E, personal conduct.

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 J:	FOR APPLICANT
Subparagraphs 1.a-1.e:	For Applicant
Paragraph 2, Guideline G:	FOR APPLICANT
Subparagraph 2.a :	For Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraphs 3.a:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Carol G. Ricciardello
Administrative Judge