



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



In the matter of:)	
)	
)	ISCR Case No. 20-03744
)	
Applicant for Security Clearance)	

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: *Pro se*

06/22/2022

Decision

CERVI, Gregg A., Administrative Judge

This case involves security concerns raised under Guideline J (Criminal Conduct); Guideline G (Alcohol Consumption), and Guideline E (Personal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on December 20, 2019. On February 8, 2021, the Defense Counterintelligence and Security Agency, Consolidated Adjudications Facility (DCSA CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines J, G, and E. The DOD CAF acted under Executive Order (Exec. Or.) 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 *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.

Applicant responded to the SOR on February 28, 2021. I was assigned the case on October 26, 2021. The Defense Office of Hearings and Appeals issued a notice of hearing on January 18, 2022, for a scheduled hearing on February 1, 2022. The hearing was convened as scheduled.

Department Counsel offered Government Exhibits (GE) 1 through 11 into evidence, and were admitted into the record. Applicant provided documents with his Answer to the SOR, but did not offer any exhibits at the hearing. The record was held open to February 11, 2022, for Applicant to submit documentary evidence in mitigation. He submitted documents, including several character letters, highlighted SCA pages, and an IRS Form 1099G, collectively marked as Applicant Exhibit (AE) A, and admitted into evidence without objection. DOHA received the hearing transcript on February 11, 2022.

Findings of Fact

Applicant is a 43-year-old aircraft painter, employed by a defense contractor since 2019. Applicant earned a high school equivalency diploma (GED) in 1995. He married in 2012, and has three adult children, none of whom live with him.

The SOR alleges under Guideline J, Applicant's alleged criminal activity, which includes a 1996 arrest and conviction for inflicting corporal injury on a spouse/cohabitant (SOR ¶ 1.a); 1998 arrest and conviction for minor in possession of liquor (SOR ¶ 1.b); 1998 arrest for intimidating/stalking and conviction for minor in possession of liquor (SOR ¶ 1.c); 2000 arrest and conviction for driving under the influence of alcohol (DUI) (liquor/drugs/vapors/combo) and DUI with blood alcohol content (BAC) over .10 or more (SOR ¶ 1.d); 2001 arrest for aggravated assault – deadly weapon/dangerous instrument (felony), burglary 1st degree (felony), and aggravated assault – enter residence (felony), and convicted of aggravated assault (felony). As a result of violating probation, it was revoked and he was sentenced to three-years' confinement (SOR ¶ 1.e); 2002 arrest for fugitive from justice based on the bench warrant issued from his previous probation violation (SOR ¶ 1.f); 2007 arrest for inflicting corporal injury on spouse/cohabitant (dismissed for lack of complaining witness) (SOR ¶ 1.g); 2010 arrest for inflicting corporal injury on spouse/cohabitant and vandalism of \$400 or more (SOR ¶ 1.h); 2019 arrest for DUI and conviction for DUI with BAC of .08 or more. He was placed on probation until January 28, 2023 (SOR ¶ 1.i). Applicant admitted Guideline J allegations SOR ¶¶ 1.a, 1.b, 1.d – 1.f, and 1.i; and denied SOR ¶¶ 1.c, 1.g, and 1.h.

Under Guideline G, the SOR cross-alleges SOR ¶¶ 1.b, 1.c, 1.d, and 1.i (SOR ¶ 2.a); and alleges that in September 2020, a psychological evaluation of Applicant disclosed a diagnosis of alcohol use disorder, moderate, remission status undetermined, with questions regarding his candor and minimization of current alcohol consumption levels. The psychologist concluded that Applicant's judgment and reliability are compromised, and his trustworthiness should be viewed with a high level of caution (SOR ¶ 2.b). Applicant did not answer SOR ¶ 2.a, and denied ¶ 2.b.

Under Guideline E, the SOR alleges Applicant falsified his 2017 SCA in two areas: Section 13A inquiring about his employment activities, he failed to disclose that he was terminated from employment in May 2016 for violation of the company's harassment policies (SOR ¶ 3.a); and in Section 22 inquiring about his police record, he failed to disclose information set forth under SOR ¶¶ 1.a, 1.b, 1.c, and 1.d, related to 1996 to 2000 alcohol and domestic violence arrests (SOR ¶ 3.b). Applicant denied SOR ¶¶ 3.a and 3.b. The Government's exhibits and testimony support the SOR allegations, except as specifically addressed below.

Applicant's criminal history began in 1996 when he was arrested for domestic violence against his girlfriend at the time, who later became his spouse. He and his current spouse were living together from 1996 to 2001, then again in 2010. Applicant testified about an argument between him and his girlfriend after a football game where she was the aggressor, he called the police, and she left the home. However, he claims they arrested him because they spoke to him, he was the male, and he was considered the "perpetrator." He was convicted of inflicting corporal injury on a spouse/cohabitant and sentenced to 10 days' confinement and three years' probation.

In 1998 he was arrested for misdemeanor minor in possession of liquor, intimidating/stalking, and minor driving after drinking. He was found guilty of minor in possession and driving after drinking, and sentenced in May 2000 to five days' confinement and probation. The record is unclear whether SOR ¶¶ 1.b and 1.c are duplicates of the same offenses as asserted by the Applicant, and insufficient evidence was introduced to make a determination, therefore SOR ¶ 1.c is found in Applicant's favor.

In September 2000, Applicant was arrested for DUI and DUI with a BAC of .10 or more. He was found guilty in January 2001 and sentenced to 10 days' confinement, suspended. Then, in October 2001, he was arrested for felony aggravated assault with a deadly weapon, felony burglary in the 1st degree, and felony aggravated assault – entering a residence. He pleaded guilty to felony aggravated assault in December 2001, and was sentenced to three months' confinement and three years' probation. Applicant claims he entered his girlfriend's residence while they were fighting and he was arrested. He asserted that he and his spouse, who was his girlfriend at the time, argued and fought often after consuming alcohol. He testified that he was permitted into his cousin's home and confronted his girlfriend there, and pushed her. In his personal subject interview (PSI) (GE 2), he claimed that he violated probation from his 2000 DUI conviction for not completing court-ordered Alcoholics Anonymous (AA) classes and not checking in with his probation officer as directed. He also violated probation for having a new offense in 2001.

In August 2002, Applicant violated probation and a bench warrant was issued for his arrest. In December 2002, he was arrested in another state as a fugitive from justice based on his bench warrant. His probation was revoked in February 2003, and he was sentenced to serve three years' confinement. He was confined from 2002 to 2005. Applicant claimed he was homeless during this period and left the state with his mother knowing that it violated his probation terms. He refused to follow the directions from his

probation officer in order to leave the state, and made a “decision right there on the spot to go to [another state] with my mom” to keep his wife and kids off the street. (Tr. 49.) He said the burglary, assault to enter a residence, and assault charges were reduced to one domestic violence charge.

In 2007, Applicant was arrested and charged with inflicting corporal injury on a spouse/cohabitant. He was with another girlfriend at the time, who he claimed would call the police after every incident because she knew he was vulnerable to criminal charges. They drank, argued, and fought. He claimed she drank more than him and was “acting out,” so he told her to leave and she called the police. She failed to appear in court as the complaining witness, so the case was dismissed.

In 2010, he was again arrested for inflicting corporal injury on spouse/cohabitant and vandalism of \$400 or more. He claims the charges resulted from another fight with his girlfriend, who failed to appear in court as a complaining witness, and were dismissed.

In 2019, Applicant was arrested for DUI and DUI with a BAC of .08 or more after returning from a “date night” outing with his spouse. In 2020, he pleaded guilty to DUI with a BAC of .08 or more, and was sentenced to 180 days’ confinement and three years’ probation. He testified that his BAC was .14, despite his answer to the SOR where he claimed he had “a drink with dinner” that evening. He served community service and his sentence to confinement was suspended. He remains on probation until January 28, 2023.

No alcohol consumption is permitted while he is on probation. As a result, Applicant stated since returning from prison, he only drank on “special occasions,” but he stopped drinking after March 9, 2019, and denies having an alcohol disorder. (Ans.)

In 2017, Applicant completed his SCA but failed to disclose his charges and convictions involving domestic violence or alcohol or drugs as required in SCA Section 22 – Police Record. He testified that he read the questions as only asking about offenses in the last seven years, not “ever” as indicated in questions regarding domestic violence and alcohol offenses. The offenses alleged in SOR ¶¶ 1.a, 1.b, and 1.d required disclosure on the SCA, but Applicant did not list them. In his post-hearing submission, he highlighted some areas on his SCA where he disclosed some items, but with reference to the section asking about domestic violence or alcohol related charges, he changed his “no” answer to “yes,” and wrote “mistake – sorry.” (AE A (SCA pages))

In addition, Applicant was terminated from employment in May 2016 for violation of the company code of conduct and harassment policy. (GE 9) The company reported that on May 11, 2016, Applicant was aggressive to and threatened another employee, and referred to supervisors with inappropriate racial slurs. He was terminated on May 16, 2016. Applicant did not disclose this termination on his 2017 SCA as required under Section 13A - Employment Activities. Applicant testified that his employer’s termination report was false, and he did not believe he was terminated, rather he was laid off and received unemployment insurance benefits. In a post-hearing exhibit, he provided

evidence of receiving \$2,250 in unemployment compensation. The document, in and of itself, is not dispositive as to whether he was laid off, fired, or both. He admitted in testimony, that he had a verbal altercation with his supervisor after he was laid off, but denied any verbal altercations or use of racial slurs about his supervisors, but he agreed that he may have been fired after being laid off. In his PSI, Applicant disclosed that he had a verbal altercation with his manager after being laid off, and told him to "F---- off." As a result, the manager tried to deny him unemployment benefits, but he appealed the matter in "unemployment court" and was awarded benefits. (GE 2)

The DCSA CAF referred Applicant for a psychological evaluation, which occurred in September 2020. (GE 3) Despite claiming in testimony and in his answer to the SOR that he stopped drinking in 2019, the psychologist reported that he stated he was "currently" consuming alcohol once every three weeks or on holidays and special occasions, and consumes an average of four beers on those occasions. He denied ever consuming alcohol in greater frequency than that, or that alcohol had ever impaired his social, interpersonal, or occupational functioning. The doctor noted that documentation he reviewed showed Applicant reported consuming larger amounts in the past, including consuming 12-18 beers over a three-day period, and the impacts alcohol had on his conflicts with his spouse. Applicant admitted in his 2018 PSI that from age 16 to 25, he consumed 10 beers each day on weekends, and from age 25 to present, he consumed 18 beers on weekends over the entire weekend (Friday to Sunday).

Of note, the psychologist stated that Applicant admitted to a verbal altercation with his supervisor, and that he was given a choice to work part-time or take unemployment compensation. He chose unemployment compensation, but "received a letter several months later from unemployment services stating that he should not have received benefits due to him being 'fired.'" Applicant told the doctor that he disputed the company's allegation and was able to maintain his unemployment benefits. He admitted that he engaged in an altercation with a supervisor and cursed at him, but vehemently denied using any racial language. (GE 3, p.2)

Applicant reported participating in several anger management classes but did not complete the courses. He and his girlfriend also participated in about five to six counseling sessions. Applicant also noted he did not like the constant oversight and invasion of privacy that came with being on probation, which led to him avoiding his probation officer and eventual probation violation.

The psychologist determined that Applicant is not currently experiencing any significant psychological symptoms that would disqualify him from being able to hold a security clearance, however, his history of sustained alcohol use across his lifespan is indicative of an alcohol use disorder. Applicant's examination showed that he answered questions with a "high degree of defensiveness" and he attempted to portray himself as being free of faults and managed the impressions and denials he gave to minimize "even the most common shortfalls" to a degree well outside the expected range. It was noted that Applicant struggles in areas including compulsiveness, alcohol abuse, suspiciousness, and inflated self-esteem. He was diagnosed with alcohol use disorder,

moderate, remission status undetermined. Cumulatively, the findings show Applicant's "judgment and reliability are compromised by his past, and likely current, alcohol use. Due to the variety of omissions and lack of candor in his reporting, the [Applicant's] trustworthiness cannot be considered intact and should also be viewed with a high level of caution." In testimony, Applicant disputed the doctor's findings and conclusions and believed the doctor was trying to catch him in a lie. He stated that he did not feel he was an alcoholic because "an alcoholic is somebody who drinks beer every day constantly, ... to cope with life, to deal with their problems, and all that stuff." (Tr. 77)

Government exhibit (GE 11) is a company report to the DoD alleging that Applicant provoked a dispute with a coworker in August 2020. Apparently, Applicant commented on the employee's IQ and called him "retarded," then challenged him to "do something about it" in a face-to-face confrontation. Applicant was reprimanded for violating company policy. This incident was not alleged in the SOR. I will consider this unalleged incident in assessing Applicant's credibility; in evaluating his evidence of extenuation, mitigation, or changed circumstances; in considering whether he has demonstrated successful rehabilitation; and in applying the whole-person concept. See, e.g., ISCR Case No. 15-07369 at 3 (App. Bd. Aug. 16, 2017).

In addition to his Answer to the SOR, Applicant included work awards and certificates, and character letters from his wife, daughter, and daughter's fiancé. As I mentioned in the hearing, these statements appeared strangely similar and do not attest to him ceasing use of alcohol in 2019. (Tr. 78-79) In a post-hearing submission, Applicant submitted several letters of support from his current coworkers, supervisor and manager attesting to his work ethic, honesty, decency, and superb work performance. He testified about his love for his work and country, and current healthy lifestyle with his spouse and children.

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

National security eligibility 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, an administrative judge applies these guidelines 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 a person's stability, trustworthiness, reliability, discretion, character, honesty, and judgment. AG ¶ 1(b).

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 that 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 made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

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. *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, e.g.*, ISCR Case No. 12-01295 at 3 (App. Bd. Jan. 20, 2015).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. *See, e.g.*, ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; *see*, AG ¶ 1(d).

Analysis

Guideline J, Criminal Conduct

The security concern relating to the guideline 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.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying in this case. The following are 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;
- (c) individual is currently on parole or probation; and
- (d) violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program.

Applicant's admissions, testimony, and the documentary evidence, as discussed in the findings of fact, are sufficient to establish the disqualifying conditions above.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following 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.

Applicant has a long history of criminal conduct that began as a teenager and continued to 2019. He has also shown a tendency to deny, minimize, or ignore his involvement or culpability in his criminal offenses. He has knowingly violated probation in the past, and is currently on probation until January 2023. Applicant has not provided sufficient or convincing evidence in mitigation. Given the totality of his involvement with law enforcement over a number of years, past felony conviction, and incidents of aggressive actions toward coworkers, I continue to have concerns that this pattern of misconduct may continue given the right circumstances. Although he has proffered favorable employment and personal character letters, there has been insufficient time elapsed to show that he has left criminal activity behind, and truly changed his lifestyle. At 43 years of age, he should have his life and conduct under control, but the evidence of such a change is sparse given his 2019 arrest and 2020 altercation at work. Given the totality and longevity of his conduct, I remain doubtful about his reliability, trustworthiness, or good judgment at this time. SOR ¶ 1.c is a duplicate, and SOR ¶¶ 1.g and 1.h were dismissed and are found in Applicant's favor. Otherwise, no mitigation fully applies to the remaining allegations.

Guideline G, Alcohol Consumption

AG ¶ 21 expresses the security concern 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. The following are potentially applicable in this case:

(a) alcohol-related incidents away from work, such as driving while 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; and

(d) diagnosis by a duly qualified medical or mental health professional (e.g. physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.

Applicant's alcohol-related driving incidents along with the diagnosis by a psychologist of alcohol abuse disorder, are sufficient to establish the disqualifying conditions above.

I have also considered all of the mitigating conditions for alcohol consumption under AG ¶ 23, including:

(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;

(c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and

(d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Like his criminal record, Applicant has a long history of alcohol-related incidents, the last being a DUI in 2019. He is now on probation, and prohibited from consuming alcohol, and unsurprisingly, he stated he quit alcohol after this conviction. His motivations are suspect, as he has had many opportunities to limit his alcohol use before they arose

to an altercation or drunk driving incident, but did not. He also rejects the diagnosis from the psychiatrist, insisting that he does not have an alcohol problem. Finally, he was referred to alcohol counseling more than once, but he did not conclude the courses. Applicant appears to be in denial, much like his testimony and assertions to the psychologist. I am not persuaded by sufficient evidence that his newfound abstinence is more than a court-ordered requirement, or is going to last.

Despite Applicant's assertions, significant doubts remain about his judgment based on his alcohol-related offenses to include DUI. Likewise, his rejection of a medical opinion is indicative of his unwillingness to confront his alcohol issues. The evidence is insufficient to mitigate the alcohol consumption security concerns. No mitigating condition fully applies.

Guideline E: Personal Conduct

The concern under this guideline is set out in AG ¶ 15:

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.

The relevant disqualifying conditions under AG ¶16 are:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

The evidence is sufficient to establish the disqualifying condition above.

Conditions that could mitigate personal conduct security concerns are provided under AG ¶ 17. The following are potentially applicable:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts, and

(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.

Applicant falsified his 2017 SCA by omitting his termination from employment in 2016, despite knowing that the company fired him. He may have reason to believe that the company acted improperly in firing him after he was laid off, but he received notice of

being terminated for misconduct. The security clearance application is the place to list such notices, not the place to contest their accuracy or timing. In addition, Applicant knowingly falsified his SCA by omitting his involvement in criminal activity involving alcohol and domestic violence. He claims that he did not read the question carefully, but with his criminal history, I find it unpersuasive that he did not read the questions carefully and did not know that his earlier criminal involvement with alcohol and domestic abuse may be relevant and reportable. I am unpersuaded that he mistakenly thought the questions related to the previous seven years given his practice of minimizing his conduct.

Based on the totality of the SOR allegations, inconsistent testimony, recurring inappropriate or illegal conduct, and falsifications on his SCA, Applicant's judgment continues to be questionable. He has not submitted sufficient evidence to alleviate those concerns. The allegations are not minor, nor did they occur in unique circumstances where they are not likely to recur. He has not accepted full responsibility for his conduct, and appears to downplay the gravity of his conduct or the extent of his involvement. I am not clear why the array of incidents have occurred in Applicant's life, but alcohol, and anger management seems to be centrally implicated. He is a mature, intelligent adult who has won praises for his work ethic and performance in his current job, but his history and continued conduct, including his completion of his SCA, raise doubts about judgment and decision-making, such that he cannot be trusted with classified information. I find no mitigating condition is fully applicable.

Whole-Person Concept

Under AG ¶¶ 2(a), 2(c), and 2(d), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d).

I considered all of the potentially disqualifying and mitigating conditions in light of the facts and circumstances surrounding this case. I have incorporated my findings of fact and comments under Guidelines J, G, and E in my whole-person analysis. I considered Applicant's awards, current family situation, and his support from family and coworkers. However, I am not convinced that Applicant is willing or able to permanently put his past misconduct aside and show good judgment in all areas of his life, especially those that are relevant to security eligibility.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. Accordingly, I conclude he has not carried his burden of showing that it is clearly consistent with the national security interests of the United States to grant him eligibility for access to classified information.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as amended, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline J: Subparagraphs 1.a-1b; 1.d-1.f; 1.i: Subparagraphs 1.c, 1.g, 1.h:	AGAINST APPLICANT Against Applicant For Applicant
Paragraph 2, Guideline G: Subparagraphs 2.a-2.b:	AGAINST APPLICANT Against Applicant
Paragraph 3, Guideline E: Subparagraphs 3.a-3.b:	AGAINST APPLICANT Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interest of the United States to grant Applicant's eligibility for access to classified information. Applicant's security clearance is denied.

Gregg A. Cervi
Administrative Judge