



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



In the matter of:)
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[NAME REDACTED]) ISCR Case No. 19-02678
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Applicant for Security Clearance)

Appearances

For Government: Erin P. Thompson, Esq., Department Counsel
For Applicant: *Pro se*

05/26/2022

Decision

MALONE, Matthew E., Administrative Judge:

Available information is not sufficient to mitigate the security concerns stemming from Applicant’s 2017 arrest for sexual assault. Applicant’s request for a security clearance is denied.

Statement of the Case

Adjudicators for the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) could not affirmatively determine, as required by Security Executive Agent Directive (SEAD) 4, Section E.4, and by DOD Directive 5220.6, as amended (Directive), Section 4.2, that it is clearly consistent with the interests of national security to grant Applicant’s request for a security clearance. On December 20, 2019, DCSA CAF issued to Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under the adjudicative guidelines for sexual

behavior (Guideline D), criminal conduct (Guideline J), personal conduct (Guideline E), and financial considerations (Guideline F). The guidelines cited in the SOR were included in the adjudicative guidelines (AG) issued by the Director of National Intelligence on December 10, 2016, to be effective for all adjudications on or after June 8, 2017.

Applicant timely responded to the SOR (Answer) and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was first assigned to me in March 2020. A timely hearing could not be scheduled because Applicant was due to undergo orthopedic surgery that required extensive rehabilitation. Thereafter, scheduling was delayed for reasons related to the COVID-19 pandemic. On November 19, 2021, I scheduled a hearing for December 14, 2021. On December 7, 2021, Applicant requested a continuance so he could retain legal counsel. I granted his request.

On February 24, 2022, Applicant advised me that he had not retained counsel, but that he was prepared to proceed *pro se*. I scheduled a hearing by video teleconference for March 14, 2022. The parties appeared as scheduled. Department Counsel produced Government Exhibits (GX) 1 – 5, to which Applicant did not object. Additionally, a copy of a discovery letter dated March 11, 2020, and a list of the Government's exhibits are included in the record as Hearing Exhibits (HX) 1 and 2, respectively. Applicant testified and produced Applicant Exhibits (AX) A and B, to which Department Counsel did not object. The record closed at the end of the hearing and I received a transcript of the hearing (Tr.) on March 28, 2022.

Findings of Fact

Under Guideline D, the Government alleged that in November 2017, Applicant was arrested and charged with forcible sexual assault, pleaded guilty to a different included charge, was ordered to register as a sex offender, and will be on supervised probation until November 2022 (SOR 1.a). The SOR 1.a allegations was cross-alleged under Guideline J (SOR 2.a) and Guideline E (SOR 3.a).

Under Guideline F, the Government alleged that Applicant owed \$25,413 for three delinquent or past-due debts (SOR 4.a – 4.c); and that he did not file as required his federal (SOR 4.d) and state (SOR 4.e) income tax returns for the 2017 tax year.

In response to the SOR (Answer), Applicant denied with explanation the allegation at SOR 1.a, and by reference, the SOR 2.a and 3.a allegations. He denied with explanations and supporting documents all of the Guideline F allegations. (Answer) After reviewing the pleadings, as well as the testimony and exhibits produced at hearing, I make the following findings of fact.

Applicant is 54 years old. He and his wife have been married since May 1989 and they have two grown children. Applicant served on active duty in the United States Army from July 1986 until retiring as a senior non-commissioned officer (NCO) in October 2010.

While on active duty, he deployed at least four times to combat zones in Afghanistan, Iraq, and elsewhere. Applicant has a 100 percent disability rating from the Department of Veterans Affairs (VA). His service-related disabilities include post-traumatic stress disorder (PTSD). After retiring from the Army in 2010, Applicant was hired by a defense contractor for work on a training contract. He has continued to do the same work, but for different employers, as each company succeeded the other in winning the contract for that work. Applicant has worked for his current employer since at least 2019; however, he has been unable to work since early 2020 pending final adjudication of his security clearance. Applicant has held a security clearance at various levels of access since early in his Army career. (GX 1; GX 2; AX B; Tr. 34 – 35, 48 – 50)

Applicant has lived and worked in State A since at least 2010. In November 2017, Applicant was sent to a military facility in State B on temporary duty. He once had been assigned in that area of State B while on active duty and took advantage of the assignment to visit some old familiar places while there. One of those places was a nightclub where he decided to take in a band that was playing there. In trying to cope with PTSD, Applicant had not consumed alcohol for almost a year prior; however, at the nightclub on the night of November 16, 2017, Applicant had four mixed drinks and two shots of tequila. That evening he also met a woman (J) who went with Applicant back to his hotel room where they had sex. Applicant claimed, in his PSI and during his testimony, that J did not want to go home because her boyfriend would be mad for some reason. Whereupon, Applicant offered to take J to his hotel room. When they got there, they engaged in what he insists was consensual sex. (Answer; GX 2; GX 3)

During his personal subject interview (PSI) with a government investigator on February 22, 2019, Applicant stated he did not see J drink at the nightclub, that he did not smell alcohol on her breath, and that she did not appear to him to be impaired. He also stated that he believed she was able to consent to having sex with him and that they engaged in consensual sex that evening. However, at hearing, he testified that he noticed her eyes were “glassy” before they went to his hotel room. He further acknowledged that she may have been under the influence of something other than alcohol and that such an impairment could render J unable to knowingly consent to having sex with him. Applicant’s sexual encounter with J was not the first time he had engaged in extra-marital sexual relations. (GX 2; Tr. 28 – 29, 33, 56 – 57)

In his PSI, Applicant stated that after he and J finished having sex, she quickly gathered her things and left. He further averred that he went to work the next day, but when he returned the local police were waiting for him. J had apparently told the hotel front desk on her way out the night before that she had been raped. Applicant did not explain why police were not called when she reported what had happened. Indeed, court records produced by the Government show an arrest on November 17, 2017, at 12:45 a.m. (GX 3 at p. 2) After questioning Applicant about what had happened, the police arrested him and charged him with felony sexual assault by force or submission. Because it was the Thanksgiving holiday, Applicant spent five days in jail before he could obtain

bail. He notified his employer upon his release from jail about what had happened, hired a local attorney, then returned home to State A. (GX 2; Tr. 26 – 27)

In October 2018, Applicant agreed to a plea deal whereby he pleaded guilty to a lesser included felony of sexual assault on a person whose ability to consent is impaired by drugs or alcohol. He testified that he would have preferred to go to trial, especially because it was doubtful J would have appeared to testify. He averred that she was in drug rehab in another state around the time the trial would have started. He was ordered to complete sex offender counseling, register in State B as a sex offender, and assessed \$5,650 in court costs. Applicant was also placed on probation until November 2022. His probation is still in place and requires him to report to a probation officer each month. Applicant is no longer on the sex offender registry in either State A or B. Applicant's wife is aware of his arrest, but it is not clear from this record if his wife knows about his other extra-marital affairs. Applicant claims their marriage is now much stronger for having worked through this issue. He also is more dedicated to his religious beliefs and he has completely stopped drinking. (GX 2; GX 3; Tr. 29 – 33)

Applicant claims he accepted the plea deal because he did not think he could get a fair trial given prevailing public opinion in State B in response to national news reports of sexual mistreatment of women. He also did not want to continue paying legal fees because, before his arrest he already was dealing with financial difficulties in the form of past-due or delinquent credit cards. He had paid off most of his debts and did not have sufficient cash on hand to pay his lawyer out of pocket. The three credit card debts alleged in the SOR were incurred during the summer of 2019 as he used them to pay his legal fees. In response to the SOR and at his hearing, Applicant established that he has repaid those three debts, and that he has finished repaying his older debts, by obtaining a debt consolidation loan and by refinancing the mortgage on his house with an equity cash-out of about \$29,000. (Answer; GX 2 – 5; AX A; Tr. 29 – 31, 35 – 40)

As alleged at SOR 4.d and 4.e, Applicant did not timely file his state or federal income tax returns for the 2017 tax year. In response, Applicant provided information that established his failure to file was inadvertent – the result of miscommunication with the tax preparer he was using at the time. He filed the returns as soon as he learned of the discrepancy and established repayment plans for any taxes owed. (Answer; Tr. 40 – 43)

Applicant's current finances appear stable. He has not incurred any new unpaid debts. In addition to his defense contractor income, his wife earns money through part-time employment, and he receives recently-increased VA disability benefits, Social Security benefits, and military retired pay. His total household income after deductions is estimated at \$10,000 monthly, which provides Applicant and his wife ample positive cash flow each month. (GX 5; AX A; AX B; Tr. 44 – 47, 51 – 52)

Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines (AG). (See Directive, 6.3) Decisions must also reflect consideration of the factors listed in ¶ 2(d) of the guidelines. Commonly referred to as the “whole-person” concept, those factors are:

- (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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest for an applicant to either receive or continue to have access to classified information. (See *Department of the Navy v. Egan*, 484 U.S. 518)

The Government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the Government must be able to prove controverted facts alleged in the SOR. If the Government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the Government's case. Because no one has a “right” to a security clearance, an applicant bears a heavy burden of persuasion. (See *Egan*, 484 U.S. at 528, 531) A person who has access to classified information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, the Government has a compelling interest in ensuring each applicant possesses the requisite judgment, reliability and trustworthiness of one who will protect the national interests as his or her own. The “clearly consistent with the national interest” standard compels resolution of any reasonable doubt about an applicant's suitability for access in favor of the Government. (See *Egan*; AG ¶ 2(b))

Analysis

Sexual Behavior

Applicant denied that he was charged as alleged at SOR 1.a; however, the Government supported that allegation with sufficient reliable information that showed Applicant was arrested and charged with forcible sexual assault. That information further showed Applicant pleaded guilty to a lesser included felony offense of sexual assault that focused on whether J was able to consent to having sex with Applicant. The record also shows that Applicant committed adultery when he had sex with J, and that he had engaged in extra-marital sex on other occasions. It is not clear from this record if his wife and others close to him are fully aware of the scope of his sexual misconduct. Available information reasonably raises a security concern about sexual behavior that is articulated, in relevant part, at AG ¶ 12:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. . . .

More specifically, the Government's information supports application of the disqualifying conditions at AG ¶¶ 13(a) (*sexual behavior of a criminal nature, whether or not the individual has been prosecuted*); 13(c) (*sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress*); and 13(d) (*sexual behavior of a public nature or that reflects lack of discretion or judgment*). I also have considered all of the following AG ¶ 14 mitigating conditions:

- (a) the behavior occurred prior to or during adolescence and there is no evidence of subsequent conduct of a similar nature;
- (b) the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (c) the behavior no longer serves as a basis for coercion, exploitation, or duress;
- (d) the sexual behavior is strictly private, consensual, and discreet; and
- (e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

The mitigating condition at AG ¶ 14(a) does not pertain to these circumstances as Applicant's conduct occurred as a fully-formed adult. As to AG ¶ 14(c), while Applicant's wife and employer are aware of his arrest, it is unclear from the record if his wife is aware of his other extra-marital activities. This mitigating condition cannot be fully applied unless it is established that, at the very least, those closest to Applicant are fully informed about his conduct. As to AG ¶ 14(e), Applicant completed court-ordered counseling after his arrest; however, available information does not reflect the results of that counseling or any prognosis, favorable or otherwise. This mitigating condition cannot be fully applied.

AG ¶ 14(b) does not apply because of Applicant's acknowledgment that he also engaged extra-marital affairs before his arrest. He greatly exacerbated those exploits by having sex with a person who was unable to fully consent to having sex, because one must ask if other women with whom he committed adultery were likewise impaired. Even though the events discussed in this case are more than three years old, they are not isolated and did not occur under unusual circumstances.

Finally, AG ¶ 14(d) does not apply because his conduct in November 2017 was not consensual. J may not have been intoxicated by alcohol when she had sex with Applicant, but Applicant observed that her eyes were "glassy" before they went back to his hotel room and acknowledged that she may have been impaired by some substance other than alcohol that night. On balance, I conclude that Applicant did not mitigate the security concerns raised by the Government's information under this guideline.

Criminal Conduct

The Government established that Applicant was arrested and pleaded guilty to a felony sexual assault charge in State B. He is still on supervised probation as part of his sentence for that offense. This information is sufficient to raise the security concern about criminal conduct as articulated at 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.

Available information supports application of the disqualifying conditions at AG ¶¶ 31(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*) and 31(c) (*individual is currently on parole or probation*). I also considered the following AG ¶ 32 mitigating conditions:

(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;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense;
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.

For the same reasons I declined to apply Guideline D mitigating condition AG ¶ 14(b), AG ¶ 32(a) does not apply under this guideline. As to AG ¶ 32(b), there is no information that suggests Applicant was pressured or coerced into acting as he did the night he was arrested. Further, Applicant's conviction of a felony charge precludes any claim that there is no reliable evidence that Applicant committed the offense at issue here. AG ¶ 32(c) does not apply.

Finally, as to rehabilitation, in addition to the reasons I cited for not applying AG ¶ 14(e), above, I cannot conclude that Applicant is rehabilitated because he is still on probation. Even though Applicant is nearing the end of that aspect of his sentence, he did not provide any input from his probation officer about Applicant's compliance with the terms of his probation or that confirms Applicant will, in fact, be released from probation as scheduled. Additionally, Applicant's version of events regarding the night of his interaction with J and the sequence of events surrounding his actual arrest, as well as his initial denial that he was charged as documented in the Government's information, do not add up. It strains credulity that a person would stop at the hotel desk to report she had been raped, but the police would not confront Applicant until late the next day. Applicant's version of events also appears to be inconsistent with the chronological court record produced by the Government. As a result, I have concerns about Applicant's credibility, and, concurrently, about his judgment and reliability. On balance, even though his 2017 arrest is isolated and more than three years old, Applicant did not meet his burden of producing information sufficient to mitigate the security concerns raised by the Government's information under this guideline.

Personal Conduct

Applicant was arrested for misconduct that reflects poor judgment and a lack of discretion. It reasonably raises a security concern about personal conduct that is articulated, in relevant part, at 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

More specifically, available information supports application of the following AG ¶ 16 disqualifying conditions:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes: (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing

Applicant's conduct is sufficient for disqualification under Guidelines D and J as discussed above; however, the adverse effects of Applicant's sexual behavior and arrest on his suitability for clearance are most acute when assessing his overall judgment and trustworthiness. His lack of credibility regarding the circumstances surrounding his arrest undermines confidence in his truthfulness and precludes an affirmative finding that the SOR allegations no longer are an accurate reflection of his personal conduct. As for the application of AG ¶ 16(e), Applicant has not established that this conduct is not a source of potential vulnerability. It is not known from this record if even those closest to Applicant are fully aware of his conduct and the circumstances surrounding his arrest. Finally, his lack of credibility regarding the circumstances surrounding his arrest undermines confidence in his truthfulness and precludes an affirmative finding that the SOR allegations no longer are an accurate reflection of his personal conduct.

I also considered the following AG ¶ 17 mitigating conditions:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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;

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

(f) the information was unsubstantiated or from a source of questionable reliability; and

(g) association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

The mitigating conditions at AG ¶¶ 17(a), 17(b), 17(f) and 17(g) are not pertinent to the facts and circumstances presented here. As to AG ¶ 17(c), the offense for which Applicant was arrested was not minor. It was a felony to which he pleaded guilty. The length of his probation reflects the court's view of the seriousness of the offense. For reasons already stated, above, Applicant's misconduct continues to reflect adversely on his reliability and judgment. AG ¶ 17(c) does not apply.

As to AG ¶ 17(d), Applicant is still on probation and he did not provide sufficient information about counseling or about the likelihood he will be released from probation later this year. AG ¶ 17(d) does not apply based on available information. Applicant also did not, as discussed above, present sufficient information that shows those closest to him are fully aware of the full extent of his sexual conduct. That circumstance could leave Applicant vulnerable to pressure or coercion by others seeking to leverage his access to sensitive information. There is no indication that Applicant has acted to address that possibility. AG ¶ 17(e) does not apply. On balance, I conclude Applicant has not mitigated the security concerns under this guideline that reasonably arise from the Government's information.

Financial Considerations

The Government presented sufficient reliable information showing that Applicant owed just over \$25,000 for three delinquent credit card accounts and that he had not filed

his state or federal income tax returns for 2017. Additionally, Applicant was already experiencing financial problems before his arrest. The need to pay for legal fees only exacerbated his inability to meet his financial obligations. This information reasonably raises a security concern about Applicant's finances that is articulated at AG ¶ 18:

Failure 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 and 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.

More specifically, available information supports application of the following AG ¶ 19 disqualifying conditions:

- (a) inability to satisfy debts;
- (c) a history of not meeting financial obligations; and
- (f) failure to file or fraudulently filing annual Federal, state, or local income tax returns or failure to pay annual Federal, state, or local income tax as required.

In response to the SOR and at hearing, Applicant established that his failure to file his 2017 tax returns was due to circumstances beyond his control and that he acted responsibly thereafter. Applicant's tax preparer did not file those returns as expected, but Applicant filed them as soon as he became aware of that problem. He has addressed his tax reporting payment issues satisfactorily. He also established that he has paid or otherwise resolved the delinquencies alleged in the SOR. He did so by using his savings and the proceeds of a cash-out refinancing of the mortgage on his home. His current finances appear sound and he has not incurred any new past-due or delinquent obligations.

Based on all of the foregoing, I considered application of the following AG ¶ 20 mitigating conditions:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (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;

(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;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue;

(f) the affluence resulted from a legal source of income; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

AG ¶¶ 20(e) and 20(f) are not pertinent to the facts and circumstances of this case. AG ¶ 20(c) does not apply because Applicant did not present information showing he had engaged in any financial counseling or other professional financial assistance to resolve his debts. AG ¶ 20(b) does not apply because Applicant's debts alleged in the SOR were caused by the legal fees he incurred after he was arrested in 2017. As such, the debts directly resulted from his own poor judgment and misconduct. Available information shows that Applicant began trying to resolve the debts alleged in the SOR before he received the SOR, and as already noted, his debts have been resolved. AG ¶ 20(d) applies. AG ¶ 20(f) applies because Applicant filed his 2017 income tax returns not long after he became aware they had not been filed as he had expected. SOR 4.d and 4.e are resolved for Applicant.

As to the delinquent debts alleged at SOR 4.a – 4.c, those financial problems are directly tied to the defects in his personal conduct, judgment, and trustworthiness. As such, his debts cannot be viewed in piecemeal fashion separately from the security concerns under the other adjudicative guidelines at issue in this case. Just as the presence of unresolved debts is not dispositive of financial security concerns, so, too, the fact that Applicant has resolved his debts does not insulate his suitability for clearance from further scrutiny. Because the underlying concerns about his judgment remain unresolved, I cannot conclude that the concerns about his financial problems have not been mitigated.

I also have evaluated this record in the context of the whole-person factors listed at AG ¶ 2(d). Applicant presented information showing he has resolved his financial problems; however, those problems directly resulted from or were exacerbated by his own failure in judgment and trustworthiness that led to his arrest in 2017. Concerns remain about Applicant's vulnerability to coercion because of his misconduct, and the fact that he repeatedly violated his wife's trust prior to his arrest severely undermines confidence in his character and reliability. In summary, doubts about his suitability for access to classified information persist. Because protection of the national interest is the paramount concern in these adjudications, those doubts must be resolved against Applicant.

Formal Findings

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

Paragraph 1, Guideline D:	AGAINST APPLICANT
Subparagraphs 1.a:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
Paragraph 4, Guideline F:	AGAINST APPLICANT
Subparagraphs 4.a – 4.c:	Against Applicant
Subparagraphs 4.d – 4.e:	For Applicant

Conclusion

In light of all of the foregoing, it is not clearly consistent with the interests of national security for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

MATTHEW E. MALONE
Administrative Judge