DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 21-00423
	)	
Applicant for Security Clearance	)	

Appearances

For Applicant: Ronald C. Sykstus, Esq.
For Government: Gatha L. Manns, Esq., Department Counsel

07/05/2022

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Decision

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HARVEY, Mark, Administrative Judge:

A U.S. Government approved psychologist indicated Applicant's Bipolar I disorder was in full remission. With continued adherence with prescribed medication, his prognosis is good. His Bipolar I condition is under control or in remission, and has a low probability of recurrence or exacerbation. Guideline I (psychological conditions) are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On May 13, 2019, Applicant completed and signed a Questionnaires for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1). On July 22, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued an SOR to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DOD CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security

clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline I. (HE 2) On July 23, 2021, Applicant provided a response to the SOR and he requested a hearing. (HE 3) On September 7, 2021, Applicant provided an additional response to the SOR. *Id*. On October 30, 2021, Department Counsel was ready to proceed. Processing of the case was delayed due to the COVID-19 pandemic.

On February 18, 2022, the case was assigned to me. On March 1, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for April 18, 2022. (HE 1) The hearing was held as scheduled.

Department Counsel offered 4 exhibits into evidence, and Applicant offered 18 exhibits. (Transcript (Tr.) 11-16; GE 1-GE 4; Applicant Exhibit (AE) A-AE R) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 12-13, 16) On April 26, 2022, DOHA received a transcript of the hearing. Applicant provided two exhibits after the hearing, which were admitted without objection. (AE S; AE T) On June 20, 2022, the record closed. (Tr. 135)

I take administrative notice of the Diagnostic and *Statistical Manual of Mental Disorders 5th Edition* (*DSM-5*), pages 64, 161-170, which address and define the diagnosis of Bipolar I Disorder. (HE 5)

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted most of the information in SOR ¶¶ 1.a through 1.e. (HE 3) He also provided mitigating information. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 38-year-old deputy program manager for a Defense contractor. (Tr. 18, 38; GE 1) In 2002, he graduated from high school. (Tr. 19) In 2006, he received a bachelor's degree in business. (Tr. 19; AE G) He has a master's degree in aeronautical science and a project management professional certification. (Tr. 45; AE E; AE F) He has been married for eight years, and his children are ages seven and four years old. (Tr. 18, 85; GE 1) His father is a retired Air Force officer, and both of his grandfathers served in the military. (Tr. 19, 102) His resume provides details of his professional training and experience. (AE Q) He has held a security clearance continuously since he was age 18. (Tr. 8)

Applicant was commissioned through ROTC in the Air Force as a second lieutenant. (Tr. 19-22) He successfully completed pilot training and was assigned to fly KC-10s, which are large air-to-air refuelers about the size of a 747. (Tr. 21, 23-24) He successfully completed survival training. (Tr. 23) He completed three combat-zone deployments as a copilot and one combat-zone deployment as an aircraft commander.

He has more than 1,000 combat-flight hours. (Tr. 24-25) Some of the flights were dangerous because of flying in bad weather with old aircraft. (Tr. 25-26) Once during a flight, his aircraft caught on fire and was filled with smoke. (Tr. 27) He had a three-year follow-on assignment as an instructor pilot, and being continuously alert was paramount because there was some risk involved as trainee pilots sometimes make dangerous mistakes. (Tr. 28)

Psychological Conditions

SOR ¶¶ 1.a, 1.b, and 1.c allege Applicant received inpatient care in a military mental-health facility in August 2014, August 2015, and October 2015, following bipolar episodes.

In 2014, Applicant volunteered to be a pilot for a highly specialized aircraft that costs the government more than $300 million. (Tr. 29) He had trouble sleeping; his Air Force duties were stressful; and there was a new baby in his home. (Tr. 31, 47, 88) He went to a flight surgeon on a Friday, and he received a prescription for Restoril. (Tr. 31-32, 47) He took the medication over the weekend. (Tr. 47) On Monday, he went back to the doctor, and the doctor noticed Applicant's speech was odd. (Tr. 48) He was referred to a psychiatrist in the same clinic, who observed his comments were nonsensical. (Tr. 48) He received a referral to a military mental-health facility. (Tr. 32, 48) However, Applicant thought he was going to the hospital for a sleep study. (Tr. 89, 94) In August 2014, he was an inpatient at a military mental-health facility for seven days, and he was diagnosed with Bipolar disorder. (Tr. 32) He received two weeks of outpatient follow-up appointments. (Tr. 89) Applicant believed he had stress-related trouble sleeping, and he disagreed with the Bipolar disorder diagnosis. (Tr. 32, 49, 55) He was extremely worried that his lifetime dream of continuing his career as an Air Force pilot of high performance aircraft was in jeopardy due to the Bipolar diagnosis. (Tr. 49)

On September 5, 2014, a psychiatrist, Major B, prescribed 1,000 milligrams of Depakote a day, which is a mood stabilizer. (GE 3) On September 15, 2014, Major B increased the dosage to 1,500 milligrams a day. (Tr. 53; GE 3) Applicant took the prescribed medications. (Tr. 53) In October 2014, Major B said Applicant's diagnosis of Bipolar I disorder, and use of psychoactive medication made him unfit for continued Air Force duty. (Tr. 56) Applicant was concerned about the diagnosis, and in November 2014, he started seeing a flight doctor, Colonel S, who was Major B's supervisor. (Tr. 53) Colonel S was Applicant's friend, and he was also a pilot, and a psychiatrist. (Tr. 33, 90) Colonel S suggested the Bipolar diagnosis might be incorrect. (Tr. 55) Colonel S gave Applicant false hope that he might not have Bipolar disorder. (Tr. 89) Colonel S continued the Depakote; however, he reduced the dosage. (Tr. 58) Colonel S wanted to carefully observe Applicant's reaction to the reduced dosage. (Tr. 59) In January 2015, Applicant stopped taking the medication completely. (Tr. 60) Applicant continued to believe the August 2014 episode was an isolated event, and he could continue his Air Force career. (Tr. 90)

At Applicant's June 2015 medical board, Colonel S conceded he was unsure about Applicant's diagnosis. (Tr. 58) Applicant's mother is a nurse. (Tr. 68) He was

unaware that his mother had Bipolar disorder. (Tr. 32-33, 104-105) She has been asymptomatic for years. (Tr. 104) Around August to October 2015, Applicant learned of his mother's Bipolar disorder. (Tr. 63, 96) His parents did not reveal her Bipolar diagnosis because his symptoms were not similar to her symptoms. (Tr. 110) He did not immediately disclose his mother's Bipolar diagnosis to his treating psychiatrist because he was unsure whether it was relevant to his own diagnosis, which he continued to believe was not Bipolar disease. (Tr. 63) In August 2015, Applicant had been off medication for 10 months, or he may have recently restarted taking medications. (Tr. 62, 64, 95-96) He was having trouble sleeping, and he had manic-like symptoms that he was a genius, and he was having an epiphany. (Tr. 34, 64) His father took him to see Colonel S. (Tr. 63, 91, 109) Colonel S decided, and Applicant and his father agreed, that he had Bipolar disorder. (Tr. 34) In August 2015, he was an inpatient at a military mental-health facility for seven days. (Tr. 34)

In October 2015, Applicant was upset about the loss of his Air Force career, and during an Air Force weigh in, he slammed and kicked a door and started yelling that he needed an ambulance and wanted to "check in." (Tr. 35-36) The military police came into the area, tackled Applicant, and used a Taser on him. (Tr. 36) Mental-health personnel concluded he was under medicated in October 2015. (Tr. 36) In October 2015, he spent a week as an inpatient in a military mental-health facility, and then he was medically retired at a 50 percent level from the Air Force as a captain. (Tr. 37, 80) He is eligible for military medical care as a retiree. (Tr. 80) The October 2015 episode removed all doubt from Applicant, his spouse, and his parents about the accuracy of his Bipolar disorder diagnosis. (Tr. 34, 62, 91, 107, 109) He continued seeing Dr. S until he left the Air Force. (Tr. 67) He said he was completely compliant with medical directions after December 2015. (Tr. 64)

When Applicant learned he was being medically retired from the Air Force, he called the Department of Veterans Affairs (VA) for a mental-health appointment. (Tr. 67) He received a 90 percent disability rating from the VA with 70 percent for Bipolar disorder and 20 percent for other disabilities. (Tr. 37; AE A) The Federal Aviation Administration revoked his private pilot's license. (Tr. 80-81)

SOR ¶ 1.d alleges Applicant has received treatment for Bipolar disorder from the VA since August 2014. However, his VA treatment began in December 2015, and Applicant has subsequently received mental-health care from the VA. (Tr. 39) He sees a psychiatrist every 90 days and a counselor or psychologist every 30 days. (Tr. 39, 72) He is also able to seek assistance on an as needed basis. (Tr. 98) Applicant's spouse is a nurse, and she is watchful for any symptoms of Bipolar disorder or the beginnings of any manic episodes. (Tr. 34, 39, 85) He has not received inpatient treatment since October 2015. (Tr. 40) He takes his medication every night at 9:00 pm. (Tr. 40)

SOR ¶ 1.e alleges a licensed psychologist (H) evaluated Applicant in December 2020. Psychologist H diagnosed Applicant with Bipolar I disorder, full remission. SOR ¶ 1.e continues:

> With continued adherence with prescribed medication, your prognosis is good. However, your ongoing pattern to attempt to conceal the truth and minimize your condition arouses concern about either your judgment (if minimizing) or trustworthiness (if attempting to conceal the truth). The discrepant information you continue to provide, and in the absence of medical oversight, what may otherwise be minor concerns about your judgment and trustworthiness are more significant.

Applicant disagreed with Dr. H's comment that he has an "ongoing pattern to attempt to conceal the truth and minimize your condition." (Tr. 42) Dr. H said Applicant omitted or minimized the following details: "His mother's history of Bipolar Disorder, the extent of his sleep deficits, and his history of amphetamine use were relevant details he did not share openly with his physician. It is clear [Applicant] was motivated to conceal these facts when he contested his diagnosis." (GE 2 at 11) According to Dr. H's report, the use of amphetamines was not disclosed in his background information or acknowledged on the objective Psychological Screening Inventory (PSI). (GE 2 at 5) However, Dr. H's report states, "unstructured interview revealed tandem use of stimulants and Ambient to manage extremely long flight duty when he was in the Air Force. While he initially drank Red Bull, he was later given Dexedrine or other forms of amphetamine for long missions and Ambien to rest between flights." *Id*. Applicant may not have recognized that the PSI was seeking any amphetamine use and not amphetamine use not prescribed by medical personnel.

Dr. H believed Applicant answered some questions in the PSI with excessively positive responses. GE 2 at 5 At his hearing, he described himself as an optimistic person, and he believed while his condition is serious and challenging, with the excellent care he is receiving from the VA, his outlook is good. (Tr. 42) He denied that he minimized his mental-health issues. (Tr. 43) He noted that he fully disclosed his mental-health diagnosis on his SCA, and he included the hospitals where he received treatment. He said Dr. H did not review any medical records after 2016. (Tr. 43) She did not review his VA medical records. (Tr. 43)

Dr. H concluded her evaluation:

> With continued adherence with prescribed medication, his prognosis is considered good. Without medication, he would be at risk for another manic episode. Consultation with his current medical providers at the VA would be helpful to verify his compliance. With the discrepant information he continues to provide and in the absence of medical oversight, what may otherwise be minor concerns about his judgment and trustworthiness are more significant. (GE 2 at 11)

Applicant's VA records indicate that he continues to received regular therapy. (Tr. 44) He is treatment compliant and invested in management and resolution of his symptoms. (Tr. 45) He is currently taking 375 milligrams of Seroquel and 400 milligrams of Lamictal daily, which are mood stabilizers. (Tr. 69-70) He has been taking them for about two years, and they are effective in the maintenance of his stability. (Tr. 71) If he

feels excessive stress or anxiety, he seeks help. (Tr. 71) For example, in 2018, he had a difficult boss and was upset, and he sought help from the VA. (Tr. 73) He received a prescription for anxiety, which he took for a short period of time. He has not had any episodes of mania, depression, or hospitalizations since October 2015. (Tr. 71-72, 75) He believed his Bipolar disorder was readily controllable with treatment, and he is diligent with his compliance with the VA's treatment recommendations. (Tr. 76, 92)

On April 15, 2022, a VA licensed clinical social worker (LCSW F) wrote that he provided counseling to Applicant. (AE R) LCSW F said "Veteran has been under my care since January 2021 and continues to seek regular individual therapy. Next scheduled appointment is on 5/19/22. Veteran is treatment compliant and invested in management and resolution of symptoms. Veteran does not have any work restrictions or limitations related to mental health diagnosis." (AE R)

On May 3, 2022, LCSW F said Applicant "voluntarily entered a counseling or treatment program"; his "identified condition [is] readily controllable with treatment"; he "demonstrated ongoing and consistent compliance with the treatment plan"; his "condition [is] amenable to treatment"; and he "is currently receiving counseling or treatment with a favorable prognosis." (AE S)

Applicant receives support from his church and family. (Tr. 45-46) His spouse carefully observes his behavior, is familiar with the symptoms of a manic episode, and will ensure that if symptoms start to appear, she will contact the VA to seek help. (Tr. 93, 97-989) He helps coach soccer and is a leader in another organization helping the youth in the community. (Tr. 92, 115)

Character Evidence

Applicant's father, mother, and spouse are familiar with his medical history and his reluctant but eventual acceptance of his Bipolar disorder. He is stable and compliant with his medical recommendations. (Tr. 110) They indicated he is responsible, reliable, and trustworthy. Their statements along with two additional witnesses supported reinstatement of his security clearance.

Appellant received the following military awards: Air Medal with 5 Oak Leaf Clusters (OLC); Air Force (AF) Commendation Medal with 1 OLC; Meritorious Unit Award with 2 OLCs; Meritorious Unit Award with 2 OLCs; AF Outstanding Unit Award with 3 OLCs; Combat Readiness Medal; National Defense Service Medal; Afghanistan Campaign Medal with 4 Service Stars; Global War On Terrorism Expeditionary Medal; Global War on Terrorism Service Medal; AF Overseas Ribbon Long; Air Force Expeditionary Service Ribbon with Gold Border with 2 OLCs; AF Longevity Service with 1 OLC; AF Special Duty Ribbon with 1 OLC; Small Arms Expert Marksmanship Ribbon with 1 Service Star; AF Training Ribbon; and NATO Medal. (AE C) He completed several Air Force training courses. (*Id*.)

Applicant's six Air Medals are particularly noteworthy. (AE C, AE I-N; SOR response) They described more than 100 combat missions flying over Iraq and

Afghanistan providing millions of gallons of fuel to aircraft patrolling or engaged in airstrikes against the enemy. They include these two sentences "The expertise and courage exhibited by [Applicant] during these critical aerial refueling missions, under extremely hazardous conditions, demonstrated his superior airmanship and steadfast devotion to duty. The professional ability and outstanding aerial accomplishments of [Applicant] reflect great credit upon himself and the United States Air Force." (AE C, AE I-N)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, emphasizing, "no 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 tasked agency heads with the responsibility to maintain "an effective program to ensure that access to classified information by each employee is clearly consistent with the interests of the national security." Exec. Or. 12968, Section 1.2(b).

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

The 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 an appellant may deliberately or inadvertently fail to protect or 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. Clearance decisions must be in terms of national security and access to classified information is limited to appellants "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Exec. Or. 12968, Section 3.1(b).

Analysis

Psychological Conditions

AG ¶ 27 articulates the security concern for psychological conditions:

> Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 provides conditions that could raise a security /concern and may be disqualifying in this case:

> (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
>
> (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
>
> (c) voluntary or involuntary inpatient hospitalization; and
>
> (d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

The record establishes AG ¶¶ 28(a), 28(b), 28(c), and 28(d). Further details will be discussed in the mitigation analysis, *infra*.

Five mitigating conditions under AG ¶ 29 are potentially applicable:

> (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

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

Applicant had manic episodes in August 2014, August 2015, and October 2015, followed by inpatient care in a military mental-health facility, for seven days on each occasion. He was diagnosed with Bipolar I disorder. Applicant's diagnosis was made using the criteria in DSM-5.

DSM-5 states:

Bipolar disorder. Individuals with bipolar disorder may have increased activity, poor concentration, and increased impulsivity, but these features are episodic, occurring several days at a time. In bipolar disorder, increased impulsivity or inattention is accompanied by elevated mood, grandiosity, and other specific bipolar features. (DSM-5 at 64)

The bipolar I disorder criteria represent the modern understanding of the classic manic-depressive disorder or affective psychosis described in the nineteenth century, differing from that classic description only to the extent that neither psychosis nor the lifetime experience of a major depressive episode is a requirement. However, the vast majority of individuals whose symptoms meet the criteria for a fully syndromal manic episode also experience major depressive episodes during the course of their lives. (DSM-5 at 123)

The Diagnostic Criteria for Bipolar I disorder is as follows:

For a diagnosis of bipolar I disorder, it is necessary to meet the following criteria for a manic/episode. The manic episode may have been preceded by and may be followed by hypomanic or major depressive episodes.

Manic Episode

A. A distinct period of abnormally and persistently elevated, expansive, or irritable mood and abnormally and persistently increased goal-directed activity or energy, lasting at least 1 week and present most of the day, nearly every day (or any duration if hospitalization is necessary).
B. During the period of mood disturbance and increased energy or activity, three (or more) of the following symptoms (four if the mood is only irritable) are present to a significant degree and represent a noticeable change from usual behavior:
1. Inflated self-esteem or grandiosity.
2. Decreased need for sleep (e.g., feels rested after only 3 hours of sleep).
3. More talkative than usual or pressure to keep talking.
4. Flight of ideas or subjective experience that thoughts are racing.
5. Distractibility (i.e., attention too easily drawn to unimportant or irrelevant external stimuli), as reported or observed.
6. Increase in goal-directed activity (either socially, at work or school, or sexually) or psychomotor agitation (i.e., purposeless non-goal-directed activity).
7. Excessive involvement in activities that have a high potential for painful consequences (e.g., engaging in unrestrained buying sprees, sexual indiscretions, or foolish business investments).
C. The mood disturbance is sufficiently severe to cause marked impairment in social or occupational functioning or to necessitate hospitalization to prevent harm to self or others, or there are psychotic features.
D. The episode is not attributable to the physiological effects of a substance (e.g., a drug of abuse, a medication, other treatment) or to another medical condition.

Note: A full manic episode that emerges during antidepressant treatment (e.g., medication, electroconvulsive therapy) but persists at a fully syndromal level beyond the physiological effect of that treatment is sufficient evidence for a manic episode and, therefore, a bipolar I diagnosis.
Note: Criteria A-D constitute a manic episode. At least one lifetime manic episode is required for the diagnosis of bipolar I disorder. (DSM-5 at 123-124)

A manic episode may result in behavior: that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, and it may result in an emotional, mental, or personality condition, including, but not limited to, irresponsible behavior or self-harm. A person in the throes of a manic episode might jeopardize national security.

From August 2014 to around October 2015, Applicant was not fully compliant with the recommendations of mental-health practitioners to take medications which would bar him from flying high-performance jet aircraft. He minimized his symptoms and convinced himself that he had a sleep disorder and the Bipolar diagnosis was incorrect. He wanted to remain in the Air Force. Dr. H reviewed the medical records from August 2014 through

October 2015, and she correctly observed that during this period Applicant minimized and contested the diagnosis of Bipolar disorder.

In ISCR Case No. 19-00151 (App. Bd. Dec. 10, 2019) the Appeal Board affirmed the grant of a security clearance in a case involving conflicting expert mental-health witness opinions, and cogently explained the necessity of reconciling opposing expert witness opinions stating:

> A Judge is required to weigh conflicting evidence and to resolve such conflicts based upon a careful evaluation of factors such as the comparative reliability, plausibility, and ultimate truthfulness of conflicting pieces of evidence. *See, e.g.,* ISCR Case No.05-06723 at 4 (App. Bd. Nov. 4, 2007). A Judge is neither compelled to accept a DoD-required psychologist's diagnosis of an applicant nor bound by any expert's testimony or report. Rather, the Judge has to consider the record evidence as a whole in deciding what weight to give conflicting expert opinions. *See. e.g.,* ISCR Case No. 98-0265 at 4 (Mar. 17, 1999) and ISCR Case No. 99-0288 at 3 (App. Bd. Sep. 18, 2000). In this case, the Judge's conclusion that the magnitude and recency of Dr. Y's contacts with Applicant in combination with other corroborating evidence merited more weight than the uncorroborated opinions of Dr. K and Dr. B is sustainable.

After October 2015, Applicant accepted the Bipolar diagnosis. He has taken his prescribed medication and complied with VA treatment recommendations. Dr. H concluded his Bipolar disorder was in remission; however, Dr. H's concern related to Applicant's future compliance with mental-health advice because of her questions about the accuracy of some of the information he provided. Dr. H specifically recommended contact with the VA to determine current compliance with mental-health medication recommendations. Dr. H had not reviewed any of the medical records generated after January 2016, when he started VA mental-health treatment.

Applicant, his spouse, his mother, and father were all credible and consistent witnesses. His spouse and mother are nurses. His father is familiar with Bipolar symptoms. They assured that they will insist that Applicant seek medical attention if or when a Bipolar or manic episode occurs. Applicant has not had a Bipolar episode since October 2015, a period of over six years.

On May 3, 2022, LCSW F said Applicant voluntarily entered a counseling and treatment program; his Bipolar condition is readily controllable with treatment; he demonstrated ongoing and consistent compliance with his treatment plan; and he has a favorable prognosis. LCSW F's prognosis is more reliable than Dr. H's concerns about whether Applicant will comply with treatment recommendations because of the magnitude and recency of LCSW F's contacts with Applicant. AG ¶ 29(b) is established. Security concerns under Guideline I are mitigated.

Whole-Person Analysis

In all adjudications, the protection of our national security is the paramount concern. A careful weighing of a number of variables in considering the "whole-person" concept is required, including the totality of Appellant's acts, omissions, and motivations. Each case is decided on its own merits, taking into consideration all relevant circumstances and applying sound judgment, mature thinking, and careful analysis. Under the whole-person concept, the administrative judge and the PSAB 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline I are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

Applicant is a 38-year-old deputy program manager for a Defense contractor. He has a bachelor's degree in business, a master's degree in aeronautical science, and a project management professional certification. His father is a retired Air Force officer, and both of his grandfathers served in the military. He successfully completed pilot training and was assigned to fly KC-10s. He completed three combat deployments as a copilot and one combat deployment as an aircraft commander, and he has more than 1,000 combat flight hours. He received numerous Air Force awards and completed several Air Force training courses. He made important contributions to the Air Force during his career, and he was awarded six Air Medals.

Applicant had manic episodes in August 2014, August 2015, and October 2015, followed by seven days of inpatient care in a military mental-health facility on each occasion. He was correctly diagnosed with Bipolar I disorder. He was medically retired from the Air Force because of Bipolar disorder, and he has a 70 percent VA disability rating because of Bipolar disorder. He has not experienced a manic episode since October 2015. I am confident Applicant or his family will inform medical authorities if a manic episode is beginning, and he will continue to comply with mental-health treatment recommendations. Based on his background, I am also confident he will scrupulously safeguard classified information.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance.

See Dorfmont, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Guideline I security concerns are mitigated.

Formal Findings

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline I:	FOR APPLICANT
Subparagraphs 1.a through 1.e:	For Applicant

Conclusion

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

_____
Mark Harvey
Administrative Judge