



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



In the matter of:)	
)	
)	ISCR Case No. 20-02919
)	
)	
Applicant for Security Clearance)	

Appearances

For Government:
Adrienne M. Driskill, Esquire, Department Counsel

For Applicant:
David Gutierrez, Esq.

July 29, 2022

Decision

GLENDON, John Bayard, Administrative Judge:

Statement of the Case

Applicant submitted his most recent Electronic Questionnaire for Investigations Processing (e-QIP) on February 23, 2019. On September 6, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a Statement of Reasons (SOR) to Applicant, detailing security concerns under Guidelines J (Criminal Conduct), F (Financial Considerations), and E (Personal Conduct). The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AG) effective within the Department of Defense after June 8, 2017.

Applicant's counsel answered the SOR (Answer) on September 17, 2021, and requested a hearing before an administrative judge. Department Counsel was prepared to proceed on November 5, 2021. The case was initially assigned to another judge and then was reassigned to me on March 23, 2022. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Video Teleconference Hearing on April 25, 2022, scheduling the hearing for May 23, 2022. Due to a last-minute submission of documents by Applicant's counsel, I granted Department Counsel's request for a brief continuance. The case was heard as rescheduled on June 1, 2022.

Department Counsel offered nine exhibits marked as Government Exhibits (GE) 1 through 9, which were admitted without objection. Applicant testified on his own behalf and submitted Applicant Exhibits (AE) A through J, which were also admitted without objection. DOHA received the transcript of the hearing (Tr.) on June 14, 2022. (Tr. at 9-13.)

Findings of Fact

Applicant is 38 years old and has never been married. He has no children. He graduated from high school in 2001. He has worked for Federal contractors as an electronics technician since 2008. He wants to continue his education to prepare himself for future responsibilities. He was granted a security clearance in 2009 and now seeks to renew his clearance eligibility in relation to his employment. Without a clearance, he can continue with his current employer, but his progress and opportunities at the company would be limited. (Tr. at 39, 44-45.)

Paragraph 1 - Guideline J, Criminal Conduct

The Government alleges, in this paragraph, six incidents involving criminal conduct by Applicant over the period March 2006 to August 2020. In his Answer, Applicant admitted each of the allegations, but in two instances he also denied part of the SOR allegations. The specific details are as follows:

1.a. **March 2006 traffic citations – seat belt and no insurance.** On March 10, 2006, Applicant was cited for two driving violations. He was 23 years old at the time and was living at his home with his mother. In April 2006, he pled to both charges and was fined \$85 for the seat belt violation and \$1,040 for the insurance violation. In addition, Applicant failed to pay the assessed fine and a warrant was issued in July 2006. In October 2006, the court set aside the guilty plea and fine for the insurance violation. Applicant paid the remaining fine in full on November 27, 2006. Applicant presented evidence at the hearing showing that he now has insurance for his vehicle. He admitted that he acted immaturely at that time. (Answer at 1; Tr. at 15-17, 47; GE 9; Answer Ex. 5-8; AE A.)

1.b. May 2008 possession of marijuana and driving an unregistered vehicle. On May 4, 2008, Applicant was charged with drug possession and operating an unregistered vehicle. In the summary of his background interview, Applicant is reported as stating that the original drug charge was for a felony. The Government's court records reflect that this charge was for a misdemeanor, however, no police records were submitted into evidence to permit a review of the original charge by the police. On June 17, 2008, Applicant pled guilty to misdemeanor marijuana possession and was fined. Applicant testified that he no longer uses drugs and he does not drink alcohol. His last use of marijuana was in about 2008. He prefers to have a clear, focused mental condition. He knows that marijuana use is legal under laws of the state in which he resides (State 1), but he also understands that Federal law and his work for the Federal Government prohibit his use of marijuana. (Answer at 2; Tr. at 17-18, 46-47; GE 4 at 2; GE 8 at 1-4.)

1.c. January 2013 domestic battery arrest. Applicant admits he was arrested on this charge, but he denies the underlying allegation of domestic battery. He had a physical altercation with his then-girlfriend (Woman A) during an argument outside of a club, which was observed by a police officer. In an affidavit, Woman A wrote that Applicant violently pushed her. Applicant blames this arrest on a "toxic relationship" he had with the victim, which he claimed was due to her mental illness. Applicant admitted both he and Woman A were intoxicated at the time of his arrest. He testified that no charges were filed. Applicant and Woman A started dating in 2012 and separated in 2016. Applicant testified that he has never had an issue of domestic abuse with any woman before or after the one involved in this incident. (Answer at 2; Tr. at 18-19, 47-50; GE 2 at 4; GE 7 at 10.)

1.d. September 2016 restraining order due to domestic violence. On July 18, 2016, Woman A obtained a temporary court restraining order for protection from Applicant based upon her claims that applicant had physically abused her. Applicant believes that she initiated the proceedings against him because he had terminated their relationship. He testified that he was surprised that she sought the court order because he had never been violent with her. The woman claimed in her court papers that she sought to leave him and he reacted violently towards her. At the DOHA hearing, Applicant denied that he had ever been violent with her, but admitted that "we [did] tussle together." The court papers were served on Applicant on August 15, 2016. A preliminary court date had been continued on August 4, 2016, because Applicant had not been served at that time. The SOR alleges that Applicant evaded service of the restraining order. This allegation was based upon court papers reflecting five unsuccessful attempts to serve the court papers on Applicant at his residence in State 1. In his Answer, Applicant admitted that the court entered a restraining order against him, but he denies that he evaded service. He claimed he was not aware of the order until it was served. The restraining order was ultimately dismissed on October 20, 2020, at the request of Woman A. (Answer at 2-3; Tr. at 19-20, 50-54, 61-64; GE 7 at 44, 49; Answer Ex. 1.)

1.e. May 2016 driving citations – no valid license and tire violation. Applicant was issued a citation on March 14, 2016, He was ordered to appear in court on May 9, 2016 to respond to these charges. He failed to appear in court. He finally appeared in

court on November 1, 2016. He pled guilty to failure to appear, and the driving infractions were dismissed. He was fined \$100 and was ordered to pay the fine in installments of \$35 per month commencing on December 1, 2016. Applicant failed to appear in court on December 1, 2016, to pay the first installment of the fine and a civil assessment was ordered. Applicant testified that he was working in another state for an extended period of time and upon his return to State 1, he resolved the citation. He began paying the fine in January 2018 and finished paying it in October 2018. He was unable to explain why he did not have a valid driver's license at the time of the citation. He described generally that his driver's license had been suspended at some time due to his failures to appear in court. (Answer at 3; Tr. at 21-23, 54-56; GE 6 at 3-6; Answer Ex. 2-4.)

1.f. **August 2019 – traffic citation for speeding (86/65).** On October 22, 2019, Applicant failed to appear in court to respond to a speeding citation. The court docket in the record reflects that he failed to appear in court again on November 7, 2019, February 11, 2020, and August 14, 2020. The docket also shows that he appeared in court on February 21, 2020, and pled not guilty. Applicant claims that he appeared at the initial court hearing and requested a trial. He went to court for the trial and the courthouse was closed due to the COVID pandemic. He testified that he never heard further about a court date. His employer subsequently relocated him to State 2 for an extended period of time to manage a project. He claimed he was unaware of the warrant until he received the SOR. He wrote in his Answer that he intends to go to court and address the citation and warrant. As of December 30, 2020, the amount of the unpaid fine was \$882. At the DOHA hearing, he provided evidence of payment of the fine in the amount of \$1,010 on May 23, 2022, a week before the hearing. Applicant testified that he now understands that he can hire an attorney to represent him in any future legal problems and avoid missing court dates when he is away from home due to his work responsibilities. He admitted that he had been irresponsible missing the November 2019 court date. (Answer 3; Tr. at 23-25, 56-59; GE 5 at 1-3; AE C.)

Paragraph 2 - Guideline F, Financial Considerations

The Government alleges in this paragraph that Applicant is ineligible for clearance because of his unwillingness to abide by rules and regulations, raising questions about his reliability, trustworthiness, and ability to protect classified or sensitive information. The SOR alleges that Applicant failed to file his Federal and state income tax returns as required for tax years (TYs) 2016, 2018, 2019, and 2020 (SOR 2.a). The SOR also alleges that Applicant failed to pay his State 1 fine and penalties in connection with the traffic citation alleged in SOR 1.f (SOR 2.b). The specific details are as follows:

2.a. **Failure to timely file Federal and state taxes.** In his Answer, Applicant admitted that he failed to file his Federal and state income tax returns for TYs 2016 and 2018 through 2020 in a timely manner. He asserted that the returns have now been filed. At the hearing, Applicant explained that his failures to file his returns was “mostly” due to his work-related travel schedule for extended periods of time. His exhibits include unsigned copies of his Federal tax returns for TY 2018 and 2020 that were prepared by

a tax professional. The TY 2018 return is undated and reflects a balance due in the amount of \$3,792 and the TY 2020 return reflects a refund due to Applicant in the amount of \$731. The TY 2020 tax return is dated July 14, 2021, which would have been about two months late in the absence of an extension to file past the due date, which was extended to May 17, 2021, for that tax year due to the COVID pandemic. Applicant provided no documentary evidence that he filed for an extension in 2021. He testified that the other tax returns were filed in about September 2021, after he received the SOR. Given the limited information in the record, counsel for the Government and Applicant stipulated to Applicant's testimony that his tax returns for TYs 2016, 2018-2020 were filed, but they were not filed on time. Applicant testified that he intends to file his returns in a timely manner in the future using the services of a tax professional. (Answer at 4; Tr. at 26, 64-; GE 2 at 5; AE D through I.)

Applicant testified further that he entered into a payment plan in 2021 to pay his Federal tax debt of about \$4,000 for TY 2018. He pays the Federal Government about \$200 per month. He also had a tax liability to State 1 for the same year. The state garnished his wages to collect that debt. He has now fully paid the state tax debt. With interest and penalties, his total Federal and state tax debt for 2018 was about \$9,000. This liability arose due to Applicant withdrawing funds from his 401k account in 2018 to pay off a car loan and a credit card. (Tr. at 69-74.)

2.b. Failure to pay State 1 fine and penalties. Applicant asserted in his Answer that he has retained an attorney to address the underlying infraction and fine. As noted in the discussion of the facts surrounding SOR 1.f, above, Applicant provided evidence that he paid this fine of about \$1,000 on May 23, 2022, shortly before the hearing date of June 1, 2022. He testified that he did not pay this fine earlier because he was unaware of it prior to receiving the SOR. (Answer at 4; Tr. at 73-74; GE 5 at 2; AE C.)

Paragraph 3 - Guideline E, Personal Conduct

The Government cross-alleges in this paragraph all of the allegations set forth in paragraphs 1 and 2 of the SOR. The SOR states that conduct involving questionable judgment or an unwillingness to comply with rules and regulations raises questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. In his Answer, Applicant denied that his personal conduct demonstrates an unwillingness to comply with rules and regulations. (Answer at 4.)

Mitigation

The Director of Operations of Applicant's employer and security clearance sponsor provided a strong character reference praising Applicant's reliability and good moral character. The character reference described Applicant as "dependable, responsible, and honest." (Tr. at 12; AE J.)

Applicant testified that he began working for his current employer in February 2022. He manages large and important contracts for one of the U.S. military services installing technical equipment, which requires experience, skills, scheduling, and project planning. He worked for his prior employer for about three years and another employer for about ten years before that. Both of his prior jobs and his current employment involved the same type of Defense Department contract work. In his last job, he lived and worked in State 2. Starting in about 2019 he began working as a team lead, and more recently he managed about 30 technicians. Applicant worked ten or more hours a day, six days a week. He was voted "Employee of the Year." His good work for that company opened the opportunity he has with his current employer. In his new job, he will be managing a team of about 60 technicians. Applicant is a relatively young person to have so much responsibility. In his new position as a manager, he has more responsibility and his pay is accordingly higher. Over the years, his hourly pay rate has increased from \$14.50 to about \$45. His new position also requires him to work long hours with much overtime. His income increased to well over \$100,000 in 2021. (Tr. at 27-37, 42-43.)

The Defense Department contracts on which Applicant works often require him to be on site in another state for long periods of time. As a result, when he is residing in State 1, he lives with his mother. He testified that this situation was the main reason why he missed court dates and did not file his taxes in a timely manner. He also admitted that he has been irresponsible in the past, but claims that behavior has changed. He believes that he has shown "tremendous growth since those situations [alleged in the SOR] happen[ed]. They have all been taken care of. And they are all things that will not occur again." (Tr. at 28-36, 76.)

Applicant has learned from his employment the importance of planning and taking care of both his work requirements and those of his personal life. He realizes he can no longer afford to be irresponsible in his handling of his personal affairs. He claims he is now much more responsible than he has ever been. He understands that the four most recent incidents listed under Guideline J, and both of the financial issues alleged under Guideline F, arose while he held a security clearance. His receipt of the SOR has prompted him to reexamine how he has handled his taxes and other legal responsibilities. Applicant understands that he has a highly supportive attorney who has known him since his childhood and is available to take care of any legal problems Applicant encounters. Applicant now also has a tax professional to file his income tax returns every year in a timely fashion. Applicant's 2021 tax returns were filed prior to the filing deadline in April 2022. He also commented that he has not been arrested or given a citation since the 2019 speeding incident. (Tr. at 29-38, 59.)

Applicant is determined to avoid repeating the tumultuous relationship he had with Woman A for four years (2012 to 2016). He is now in a stable relationship with a woman he wants to marry. He and his girlfriend plan to raise a family together. She has a doctorate degree in physical therapy. They presently have no difficult relationship issues, but they are engaged in counseling to help them learn to communicate better and avoid issues that can be disruptive to their relationship. He now invests his money rather than

going out with his friends. He has a good credit score. Applicant and his girlfriend look forward to buying a house one day. (Tr. at 38-41.)

Policies

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

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

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires, "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

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

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant 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 or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, "Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned."

See also Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Guideline J - Criminal Conduct

The security concern under this guideline is set out in AG ¶ 30 as follows:

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 two conditions that could raise security concerns and may be disqualifying in this case:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

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

Applicant's criminal conduct and his failures to appear in court when required, as alleged in the SOR, are established by Applicant's admissions in his Answer and in his testimony. These facts shift the burden to Applicant to establish mitigation. AG ¶ 32 sets forth four mitigating conditions under Guideline J. The following two mitigating conditions have possible application to the facts in this case:

(a) so much time has passed 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.

Neither of the above mitigating conditions have been sufficiently established to mitigate the security concerns raised by Applicant's long pattern of irresponsible and untrustworthy behavior. He did not pay his 2019 fine for speeding until about a week

before the hearing. Applicant's pattern of behavior dating back to 2006 reflects an unwillingness to comply with laws, rules, and regulations. Insufficient time has passed to permit a conclusion that his past behavior will not be repeated. That pattern of behavior casts doubts on Applicant's reliability, trustworthiness and judgment.

Applicant has presented some important evidence of rehabilitation. He has dramatically risen to a high level of responsibility in his employment. His claims of making changes in his personal life, however, have not been established by a track record of responsible adult behavior. He needs more time to demonstrate that his intention to act responsibly and comply with basic rules of society, such as showing up in court when required and paying fines in a timely manner, will be matched by his actions. Applicant's evidence of rehabilitation does not fully establish mitigation of the security concerns raised in this case. Paragraph 1 is resolved against Applicant.

Paragraph 2 - Guideline F, Financial Considerations

The security concerns relating to the guideline for financial considerations are set out in AG ¶ 18, which reads in pertinent part:

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 personal security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

AG ¶ 19 describes two conditions that could raise security concerns and may be disqualifying in this case:

- (a) inability to satisfy debts;
- (b) unwillingness to satisfy debts regardless of the ability to do so;
- (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.

Applicant failed to file his Federal income tax returns for TYs 2016 and 2018 through 2020, as required. Also, Applicant failed to pay a fine for speeding given in 2019 until May 2022, a week before the hearing. The DOHA Appeal Board has stated that a “failure to file tax returns suggests that an applicant has a problem with complying with well-established governmental rules and systems. Voluntary compliance with such rules and systems is essential for protecting classified information.” ISCR Case No. 14-04437 at 3 (App. Bd. Apr. 15, 2016). The record evidence establishes the foregoing disqualifying conditions, and shifts the burden to Applicant to mitigate those concerns.

The guideline includes three conditions in AG ¶ 20 that could mitigate the security concerns arising from Applicant’s financial delinquencies:

(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;

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

The two financial issues set forth in paragraph 2 of the SOR are related in that they reflect an unwillingness or inability to comply with rules and regulations. They occurred over a number of years up to and including 2021, when Applicant filed his tax returns late, including his 2020 returns. His failure to pay a speeding citation until the eve of the hearing in this case brings his financial irresponsibility up to the present and casts doubt on Applicant’s current reliability, trustworthiness, and judgment. Mitigation under AG ¶ 20(a) has not been established.

Applicant has now paid the debt alleged in SOR 2.b. The fact that the debt was not paid until he had to appear at a DOHA hearing on his eligibility to hold a security clearance significantly undercuts the good-faith nature of his actions. Mitigation under AG ¶ 20(b) has not been established.

The preponderance of record evidence indicates that Applicant has filed his TY 2016, 2018, 2019, and 2020 Federal and state income tax returns. He did so in September 2021 after receiving the SOR. This timing undercuts the mitigation value of his actions under AG ¶ 20(g). Paragraph 2 is found against Applicant.

Paragraph 3 - Guideline E, Personal Conduct

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

AG ¶ 16 describes one condition that could raise security concerns and may be disqualifying in this case:

(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.

To the extent that it is deemed that the credible adverse information established under Guidelines J and F are insufficient to support an adverse national security eligibility determination under one of both of those guidelines, the above potentially disqualifying condition is established. The record evidence demonstrates that Applicant has engaged in a pattern of conduct that supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, or unwillingness to comply with rules and regulations, indicating that he may not properly safeguard classified or sensitive information. This assessment is particularly compelling due to the fact that most of the adverse personal conduct occurred after he had been granted a security clearance in 2009. Accordingly, the record evidence of disqualifying conduct shifts the burden to Applicant to mitigate these concerns.

The guideline includes one condition in AG ¶ 17 that could mitigate the security concerns arising from Applicant's personal conduct:

(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.

Although some of the incidents set forth in the SOR involve relatively minor traffic infractions, Applicant's failures to appear and his general indifference to his legal

responsibilities create a substantial concern that his untrustworthy behavior will continue. He has not had sufficient opportunity since his untimely payment of a large fine in May 2022 to establish a track record of responsible, adult behavior. His evidence in mitigation is impressive, but it is too soon to conclude that Applicant's history of irresponsible personal conduct has indeed changed. Paragraph 3 is found against Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility 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):

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

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

I have considered the potentially disqualifying and mitigating conditions under Guidelines J, F, and E, in light of all pertinent facts and circumstances of this case. Applicant has not met his burden to establish mitigation of the security concerns under any of the three guidelines. He is a relatively young man with the potential for an excellent future ahead of him. Unfortunately, he is just beginning to realize that future. He has had insufficient time and opportunity to develop a track record of compliance with rules, regulations, and court orders to establish that his past irresponsibility will not continue. Applicant is still paying every month toward his Federal tax liability for TY 2018. The fact that most of the conduct set forth in the SOR occurred after Applicant had been granted national security eligibility for access to classified information is particularly troubling. He is now just learning that the privilege of holding a security clearance carries with it significant responsibilities. He needs more time to establish that he has learned how to meet those responsibilities. Overall, the record evidence leaves me with questions and doubts as to Applicant's present suitability for national security eligibility and a security clearance.

Formal Findings

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a through 1.f:	Against Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a and 2.b:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

Conclusion

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

JOHN BAYARD GLENDON
Administrative Judge