



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



In the matter of:

)
)
)
)
)

ISCR Case No. 20-00947

Applicant for Security Clearance

Appearances

For Applicant: Ronald C. Sykstus, Esq.
For Government: Rhett E. Petcher, Esq., Department Counsel

05/12/2022

Decision

HARVEY, Mark, Administrative Judge:

Applicant received inpatient mental-health treatment for psychotic episodes on five occasions and as recently as 2017. With adherence to taking prescribed medication and consistent attendance at relatively frequent appointments, his prognosis is good; however, he failed to prove such adherence and attendance. Guideline I (psychological conditions) are not mitigated at this time. Eligibility for access to classified information is denied.

Statement of the Case

On June 27, 2018, Applicant completed and signed a Questionnaires for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1). On October 8, 2020, 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 October 19, 2020, Applicant provided a response to the SOR, and he requested a hearing. (HE 3) On March 5, 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 7, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for May 2, 2022. (HE 1) The hearing was held as scheduled.

Department Counsel offered 6 exhibits into evidence, and Applicant offered 18 exhibits into evidence. (Transcript (Tr.) 13-20; GE 1-GE 4; Applicant Exhibit (AE) A-AE R) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 15, 16, 20) On May 12, 2022, DOHA received a transcript of the hearing. Applicant provided two exhibits after the hearing, which were admitted into evidence without objection. (AE S; AE T) On May 12, 2022, the record closed. (Tr. 112)

Department Counsel moved to amend SOR ¶ 1.e to change “July 27, 2019” to “July 27, 2017”. (Tr. 10; SOR response at 2 (explaining the date is incorrect)) There was no objection, and I granted the motion. (Tr. 10-11)

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 SOR ¶¶ 1.a through 1.d, and 1.f. (HE 3) He denied SOR ¶¶ 1.e and 1.g. He also provided mitigating information. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 29-year-old software engineer, who has worked for a DOD contractor since early 2019. (Tr. 21-22; GE 1) He is not married, and he does not have any children. (Tr. 22-23) In 2011, he graduated from high school, and President and Mrs. Obama signed a letter congratulating Applicant for his Eagle Boy Scout award. (Tr. 24-25; AE R) In 2016, he received a bachelor’s degree in aerospace engineering with a minor in mathematics; and in 2022, he completed seven of ten courses towards a master’s degree in aerospace systems engineering. (Tr. 26-28; AE A; AE C) He is in an engineering honor society which is limited to the top 20 percent of the engineering class. (Tr. 28; AE B) His resume provides additional details about his employment and accomplishments. (AE J)

Psychological Conditions

Applicant was hospitalized the first time from May 6, 2011, to May 18, 2011, after he demonstrated bizarre and aggressive behavior. (SOR ¶ 1.a) Applicant believed that his behavior was a reaction to stress during his senior year of high school, which included schoolwork, movement to a different house, completion of his Eagle Boy Scout project, and testing for college admission. (Tr. 29, 86-87; SOR response) He was living with a friend while his parents were in the process of moving into a different house. (SOR Response at 2) The psychosis appeared for the first time in 2011 when he was 17 years old, and Applicant contended the psychosis may have been related to lack of sleep. (Tr. 29, 91) Applicant was living with a friend, and he was not returning his mother's telephone calls. (Tr. 88) The guidance counselor at Applicant's high school observed Applicant, who had an unusual breathing tic. (Tr. 30-32, 87) The guidance counselor asked Applicant questions, and he responded with his odd breathing tic. (Tr. 89) The guidance counselor called for an ambulance, and Applicant struggled to avoid being placed on a stretcher. (Tr. 32, 89) The hospital could not diagnose the problem, but recommended that he remain in the hospital. (Tr. 32, 90-91) At Applicant's request and with his parents' support, the hospital sent Applicant home. (Tr. 32, 89)

While Applicant was at his home, he was having suicidal ideations. "He said he wanted to kill himself." (Tr. 110) He was standing in the front yard and not saying anything else. (Tr. 112) He was depressed about his health, not being at school, and worried about his future. (Tr. 32) His mother called an ambulance, and they called the police. (Tr. 110, 113) Applicant was returned to the hospital for the second time and remained an inpatient from May 19, 2011, to June 2, 2011. (Tr. 92; SOR ¶ 1.b) He was diagnosed with a psychosis. *Id.* He was prescribed Zyprexa (olanzapine is the generic name). (Tr. 33)

SOR ¶¶ 1.c and 1.d allege Applicant was hospitalized to treat his Psychotic Disorder for the third time from February 23, 2012, to March 5, 2012, and for the fourth time from March 12, 2012, to March 30, 2012. The context of the hospitalization was medication noncompliance. He was diagnosed with Schizophrenia, Disorganized Type.

In 2012, Applicant was 18 years old and a freshman in college. (Tr. 36) He was receiving mental-health treatment. (Tr. 92) His grades for the first semester were As and Bs. (SOR response at 2) He decided on his own, without informing his parents or mental-health provider, to stop taking his medication. (Tr. 36, 94) He told his mental-health provider that he was in fact taking his medications. (Tr. 48) He rationalized that he did not like the stigma of having a mental-health disorder; he did not like the side effects of the medication; and he believed he would be fine without the medication. (Tr. 36, 52) He believed if he was fine without the medication, then this would prove he did not need it. (Tr. 48) In 2012, his mother slapped him, and Applicant slapped her back. (Tr. 69, 113) She was not knocked down, and she did not seek hospitalization. (Tr. 114) The police were not called. (Tr. 69) His grades were poor, and he was withdrawn. (Tr. 94)

After his release from inpatient treatment on March 30, 2012, Applicant said he complied with the treatment recommendations of his mental-health provider from 2012 to 2017. (Tr. 37, 108)

SOR ¶ 1.e alleges Applicant was hospitalized for the fifth time from July 9, 2017, to July 27, 2017, after he reduced his antipsychotic medication against his doctor's recommendation. He began displaying symptoms of psychosis, including homicidal ideations. He was diagnosed with Schizophrenia, disorganized, chronic.

After Applicant received his bachelor's degree in 2016, he was doing well professionally, and he was stable. (Tr. 39) He was living with his parents. (Tr. 96) His primary side effects from his medication were some drowsiness and a little weight gain. (Tr. 52-53) The main reason he wanted to stop taking the medication was because of the stigma associated with his mental-health disorder. (Tr. 54) His treating physician recommended no change in his medication; however, Applicant wanted to see whether the medication was necessary. (Tr. 39) He gradually reduced his medication level until he had completely stopped taking his medication. (Tr. 39) The previous time he stopped taking his medication abruptly, and he believed if he gradually tapered off his medication, he might not have any problems. (Tr. 51) He started the tapering process with the assistance of his doctor, and then he quit "cold turkey" without his doctor's agreement. (Tr. 108)

In July 2017, Applicant was unable to sleep for five consecutive days. (Tr. 39) He had a delusion that his cat could talk to him. (Tr. 56) He asked God what he should do, and "the thought occurred to [him] - - for some reason, to shoot up a mall." (Tr. 40, 68, 97) He realized "that didn't make any sense at all." He described his thoughts as "weird" and things would "blur together." (Tr. 56) He told his parents about his thought about shooting up a mall. (Tr. 40) Applicant does not own any firearms, and he did not take any steps, such as purchase of a firearm, to effectuate the shooting. (Tr. 40) He went to the emergency room, and told the doctor about his homicidal thought. He was admitted for mental-health treatment on July 9, 2017, for the fifth time. (Tr. 40) He said he has been taking 15 to 20 milligrams of Zyprexa daily ever since July 2017. (Tr. 41, 49-50, 73) He might miss a day occasionally because he wants to ensure he wakes up on time and is not drowsy. (Tr. 73) He is currently taking 15 milligrams of Zyprexa at night. (Tr. 50) He has not been hospitalized for mental-health treatment since 2017. (Tr. 41)

Applicant's mother characterized his thoughts about shooting up a mall as a "passive ideation" because he lacked a firearm, ammunition, and a detailed plan to effectuate this objective. (Tr. 98) He has not had any suicidal or homicidal ideations since July 2017. (Tr. 41) Applicant has analyzed the benefits and risks or costs of not taking prescribed medications, and he has determined it is best for him to continue taking his medications. (Tr. 99) His mental-health provider indicated it is not unusual for patients diagnosed with a mental-health disorder not to accept the diagnosis and to stop taking their medications until they are convinced it is in their best interests to take their medications. (Tr. 106-107)

SOR ¶ 1.f alleges and Applicant agreed that in April 2019, Doctor D diagnosed Applicant with Schizophrenia (by history). (SOR response) In April 2019, Nurse Practitioner W diagnosed Applicant with Delusional Disorder. *Id.*

SOR ¶ 1.g alleges in October 2019, Dr. B, a psychologist diagnosed Applicant with Schizoaffective Disorder, Bipolar Type. Applicant's prognosis was guarded because he had stopped taking his medications in the past and Dr. B was not confident that he was receiving proper treatment for Schizophrenic and Bipolar symptoms.

The DCSA CAF asked Dr. B to provide a mental-health assessment of Applicant. (GE 2) Dr. B is a licensed clinical psychologist and a board-certified neuropsychologist. *Id.* at 4. Dr. B reviewed Applicant's mental-health records, conducted a Personality Assessment Inventory, interviewed Applicant's treating nurse practitioner, and interviewed Applicant. *Id.* at 1. Dr. B concluded:

Although [Applicant] was pleasant and seemed honest in his report of symptoms (and in his honest inability to report his own history, at times), my interview of his treating provider suggests [that] he has not fully disclosed his history to her. She has diagnosed him only with delusional disorder, and was unaware of a history of hallucinations, mania, or homicidal ideation. Of course, I am not certain if this was an intentional effort to hide information or if his provider did not thoroughly gather historical information. His treating provider also indicated that he is medication compliant and symptom-free, but his presentation suggests he still has some slightly cloudiness of thought that is likely a symptom. He stated that he is medication compliant, but is prescribed only Zyprexa. I would classify his prognosis as guarded at this time because he has stopped his medications in the past and I am not confident that he is receiving proper treatment for schizophrenia and bipolar symptoms (rather he is only being treated for delusion disorder). Therefore, I do have some concerns regarding his judgment, reliability, or trustworthiness. (GE 2 at 4)

Dr. B believed Applicant had not fully disclosed his symptoms, including mania, hallucinations, and homicidal ideation to his current mental-health provider. (Tr. 61) Applicant said he provided his 1500-page mental-health record to Nurse Practitioner W; however, Nurse Practitioner W said she did not read all of it. (Tr. 61) She said she read enough to understand Applicant's mental-health needs. (Tr. 61) Applicant was "pretty sure" he told her about his mania, homicidal ideation, other symptoms, and treatment. (Tr. 62)

Applicant was seeing a mental-health provider, including Nurse Practitioner W, for several years before April 2022. (Tr. 42) Applicant was studying late at night for his master's degree, and his medication made him sleepy. (Tr. 43) He overslept and missed three appointments without warning his Mental-health provider. (Tr. 43, 59) The mental-health provider terminated treatment because he missed three scheduled appointments. (Tr. 43, 59-60) He claimed that he "rescheduled the appointments, and [he] still got the treatment." (Tr. 43) He said he made up every one of his appointments as soon as an appointment became available. (Tr. 59-60) He has been taking the same medication since 2017. (Tr. 43) He has not considered tapering himself off of his medication without medical approval since 2017. (Tr. 44-45) He schedules his appointments in the afternoon to ensure he goes to his appointments. (Tr. 60)

On April 21, 2022, Applicant began seeing a new mental-health provider, Nurse S, and she is a Board Certified Psychiatric-Mental Health Nurse Practitioner (PMHNP-BC). (Tr. 58; AE K) On April 22, 2022, Nurse S said:

[Applicant] presented as stable, admits to psychiatric hx of psychosis. History also includes inpatient care due to acuity of symptoms. [Applicant] has consistently been stable while taking medication, currently taking zyprexa (olanzapine) 15 mg daily, a medication also indicated for depression and a common choice when insomnia or poor sleep is also observed. Speech was normal, displayed appropriate mood and affect, thought process were logical, relevant. Thought content was normal, no psychotic thoughts. Displays realistic judgment and normal insight into condition. Normal recent and remote memory, normal attention span. Normal language ability. Fund of knowledge included normal awareness of past and present events.

Initial impression: Unspecified psychosis not due to a substance or known physical condition (in full remission) (f29)

To meet criteria for schizophrenia or a mood disorder, client was questioned regarding history of negative symptoms, manic episodes, depressive episodes. Client was negative for history of symptoms to meet criteria for schizophrenia or a mood d/o, such as bipolar disorder.

Although the client admits to history of delusional behavior, symptoms emerged briefly during periods of elevated anxiety and disturbed sleep. Differential diagnosis includes insomnia/anxiety disorder, disturbed sleep leading to presentation of psychotic features. [Applicant] has consistently taken medication since 2011 (senior in HS), zyprexa's mechanism of action causes sedation and attempt to taper and discontinue medication must be monitored for rebound insomnia and other common symptoms of tapering medication. [Applicant's] prognosis is excellent, based on clinical assessment and history. (AE K)

Applicant was unsure whether he mentioned his homicidal ideation in 2017 to Nurse S. (Tr. 57) Mania is a symptom of Bipolar disorder. Applicant claimed that Nurse S was aware of Applicant's mania; however, she did not mention his disclosure of mania. (Tr. 57) Applicant provided his mental-health records to Nurse S. (Tr. 57) Applicant did not know why Nurse S said, "[Applicant] has consistently taken medication since 2011 (senior in HS)," and Applicant acknowledged that Nurse S was incorrect. (Tr. 57) Applicant believed his most accurate diagnosis is "Psychosis, Not Otherwise Specified." (Tr. 60-61) He did not believe schizophrenia was correct because he did not have catatonia. (Tr. 61) He believed his psychosis surfaced when he was under stress. (Tr. 62) However, he did not have symptoms when he was under stress and taking his prescribed medication. (Tr. 63)

Applicant believes he has a good job, is doing well in his master's degree program, and enjoys his social community. (Tr. 46; SOR response at 3-4) In 2019 and 2020, his employer lauded his performance in his evaluations. (AE D; AE E) He has assisted multiple volunteer organizations in his community. (AE F-AE I; AE L; AE M; AE Q) He plays several sports, and he attends church. (Tr. 64, 109; AE N; AE O) He is a gifted musician. (Tr. 109; SOR response at 3-4)

Applicant realizes now that there is much less of a stigma associated with his mental-health disorder now as opposed to his belief of a significant stigma in 2017. (Tr. 55) If he has a mental-health problem or a side-effect issue with his medication, he will seek advice and assistance from his mental-health provider. (Tr. 58) His support system is to regularly telephone his parents, and he has a large network of friends. (Tr. 63, 100, 109) His closest friends are aware of his mental-health history of psychosis, but not about the homicidal ideation. (Tr. 64) His mother believes that Applicant's best friend would call her if Applicant had a mental-health issue. (Tr. 101) His employer and facility security officer are aware of his mental-health issue. (Tr. 65) He is not currently in a relationship with anyone. (Tr. 64) His mother believes Applicant will comply with medical advice, and he is nonviolent, is a good person and diligent employee. (Tr. 115-116) She recommended approval of his security clearance. (Tr. 115-116)

I requested a list of all of Applicant's appointments for the previous year. (Tr. 70, 128) In a post-hearing submission, Applicant provided evidence of his appointments from 2019 to 2022. (AE S) In 2019, Applicant went to four appointments on April 17, April 29, July 23, and October 21. *Id.* In 2020, he went to four appointments on January 13, April 6, June 26, and September 5. *Id.* In 2021, he went to five appointments on January 11, March 1, April 5, July 20, and October 11. *Id.* He missed appointments on October 15, 2019; January 10, 2022; and January 25, 2022. *Id.* He did not attend any appointments from October 12, 2021, until receiving an evaluation from Nurse S in April 2022. His billings for appointments do not support his claim that he made up all of the missed appointments with later appointments. *Id.* He continued to receive his prescriptions for Zyprexa (olanzapine) 15 mg daily despite not going to appointments with his mental-health provider. (AE T)

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 authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules

of law. Instead, recognizing the complexities of human behavior, 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and DNI have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(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.

The DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

Applicant had manic or psychotic episodes in 2011, 2012, and 2017. He was hospitalized twice in 2011, twice in 2012, and once in 2017. He had suicidal and homicidal ideations without plans in that he expressed an intent to kill himself and shoot up a mall. In 2019, a clinical psychologist diagnosed him with Schizoaffective disorder, Bipolar type. Applicant admitted that he was hospitalized five times for a mental-health disorder, failed to follow medical advice concerning taking prescribed medicine, and threatened to shoot up a mall. He admitted in 2012 he falsely told his mental-health provider that he was taking his prescribed medication.

A manic or psychotic 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 or psychotic episode might jeopardize national security.

Applicant failed to prove he took actions necessary to mitigate security concerns in this case over the previous three years. First, he failed to prove that he consistently and regularly met with a qualified mental-health provider and accurately provided information about his past and current mental-health situation. Second, he failed to prove that he followed the mental-health provider's treatment recommendations.

Applicant provided billing records that showed significant periods in which he did not see a mental-health provider for more than three months. When he missed appointments, he said he made up the missed appointment as soon as an appointment became available. This is incorrect. He missed appointments on January 10, 2022, and

on January 25, 2022, and he did not go to an appointment until April 21, 2022, with a different health-care provider. Applicant did not provide accurate and complete information about his medical history to his provider. Dr. B said his provider in 2019 “has diagnosed him only with delusional disorder, and was unaware of a history of hallucinations, mania, or homicidal ideation.” (GE 2 at 3) It is unclear whether his current provider has accurate about Applicant’s mental-health history. Applicant may be receiving treatment for a delusion disorder when he actually needs treatment for Schizoaffective disorder, Bipolar type. His quarterly appointments may not be frequent enough to safeguard classified information and may not be optimum to protect his mental health.

The April 22, 2022 statement of Nurse S states “[Applicant] has consistently taken medication since 2011.” This is incorrect. When he failed to take medication in violation of medical recommendations, a psychotic or manic episode was triggered.

After a careful review of the evidence, I believe Dr. B’s diagnosis and prognosis are the most accurate and reliable. Lingering concerns that Applicant’s mental-health condition may impair his judgment, stability, reliability, and trustworthiness remain. He may miss appointments, start to believe the diagnosis is incorrect, elect to stop taking prescribed medication, and a psychotic or manic episode may result. Security concerns under Guideline I are not mitigated at this time.

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 Applicant’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 29-year-old software engineer, who has worked for a DOD contractor since early 2019. In 2011, he received an Eagle Boy Scout award. In 2016, he received a bachelor's degree in aerospace engineering with a minor in mathematics; and in 2022, he completed seven of ten courses towards a master's degree in aerospace systems engineering. He is in an engineering honor society which is limited to the top 20 percent of the engineering class. He is exceptionally intelligent.

Applicant believes he has a good job, is doing well in his master's degree program, and enjoys his social community. In 2019 and 2020, his employer lauded his performance in his evaluations. He has assisted multiple volunteer organizations in his community. He plays several sports, and he attends church. He is a gifted musician. He has numerous friends.

Applicant had manic or psychotic episodes in 2011, 2012, and 2017. He was hospitalized twice in 2011, twice in 2012, and once in 2017 to treat psychotic or manic episodes. He expressed an intent to kill himself and shoot up a mall. Dr. B correctly diagnosed him with Schizoaffective disorder, Bipolar type. Applicant admits that he has a history of psychotic episodes, but does not accept that he has a Schizoaffective disorder. Dr. B said her prognosis was guarded because of evidence that Applicant was not fully candid with mental-health providers about his history, and sometimes stopped taking prescription medication against medical advice.

Applicant did not attend any appointments from October 12, 2021, until receiving an evaluation from Nurse S in April 2022. This gap in medical appointments causes concern especially in light of his failure to go to two appointments in January 2022.

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 not 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:	AGAINST APPLICANT
Subparagraphs 1.a through 1.g:	Against Applicant

Conclusion

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

Mark Harvey
Administrative Judge