



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



In the matter of:)
)
 [Name Redacted]) ISCR Case No. 20-03702
)
 Applicant for Security Clearance)

Appearances

For Government: Andre M. Gregorian, Esq., Department Counsel
For Applicant: Brittany Forrester, Esq.

09/15/2022

Decision

HOGAN, Erin C., Administrative Judge:

Statement of the Case

On February 2, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; 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.

The SOR detailed reasons why the DCSA 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 Guidelines G - Alcohol Consumption; J – Criminal Conduct; and E - Personal Conduct. Applicant timely responded to the SOR and requested a hearing.

On August 9, 2021, Department Counsel was ready to proceed. On February 7, 2022, the case was assigned to another administrative judge. The case was transferred

to me on June 14, 2022. On July 14, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for August 10, 2022. The hearing was held as scheduled using Microsoft Teams video teleconference.

During the hearing, Department Counsel offered five exhibits, which were admitted as Government Exhibits (Gov) 1-5 without objection. Applicant did not offer any exhibits. The record was held open until August 24, 2022 to allow Applicant to submit additional exhibits. He timely submitted three exhibits which were admitted as Applicant Exhibits (AE) A-C without objection. DOHA received a transcript of the hearing on August 18, 2022. The record closed on August 24, 2022.

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

Amendments to the SOR

At the beginning of the hearing, Department Counsel moved to amend the SOR in order to conform with the evidence. Applicant did not object to the proposed amendments. The SOR is amended as follows:

SOR ¶ 1.e. On or about May 15, 2021, you were arrested for DUI in [State 3]. You pled guilty and received a suspended sentence of 60 days in jail.

SOR ¶ 2.b was amended to replace "The information as set forth in subparagraphs 1.a through 1.d, above," with ". . . subparagraphs 1.a through 1.e, above."

Findings of Fact

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a -1.d, and 2.a - 2.b. He denied the SOR allegations in paragraphs 3.a and 3.b (Response to SOR). At hearing, he admitted SOR ¶¶ 1.e and 2.b as amended. His admissions are accepted as findings of fact.

Applicant is a 65-year-old employee of a defense contractor. He graduated from high school and has some college credit, but no degree. He served on active duty in the Navy from March 1986 to April 2009. After 23 years, he retired at the rank of E-8, senior chief petty officer, with an honorable discharge. While in the Navy, he held security clearances at the Secret and Top Secret levels. He is divorced and has one adult son. He has worked for his current employer since April 2009 after his retirement from the Navy. (Tr. 14-16, 24-25)

Alcohol Consumption

Alcohol concerns were raised because Applicant was arrested and convicted of DUI offenses on four occasions between July 1995 to September 1, 2018. (SOR ¶¶ 1.a – 1.d) After the SOR was issued, Applicant was arrested and charged with DUI on May 15, 2022. (SOR ¶ 1.e) The alcohol-related driving offenses are:

SOR ¶ 1.a: In July 1995, Applicant was arrested for DUI in [State 1]. He pled guilty and received a fine. (Tr. 16; Gov 1 at 34; Gov 4 at 9) He does not recall the specifics of this arrest. He was driving home alone from a bar. The police stopped him. He failed a breathalyzer test. He was on active duty in the Navy at the time. The Navy was aware of the arrest. (Tr. 26-28)

SOR ¶ 1.b: On October 29, 2000, Applicant was arrested for DUI in [State 1]. He pled guilty and was sentenced to three days in jail, a \$600 fine and his license was suspended. (Tr. 17; Gov 1 at 34; Gov 4 at 9) Applicant and his roommate were driving to get breakfast after drinking at a bar. A police officer stopped him. He took a breathalyzer, but was not sure of the results. His license was suspended for one year. He reported this offense to the Navy. (Tr. 28-30)

SOR ¶ 1.c: On April 30, 2011, Applicant was arrested for DWI in [State 2]. He pled guilty and received a fine. (Tr. 17; Gov 4 at 10) He was staying at a hotel. He drove his motorcycle back to the hotel after going to a sports bar. He had 3-4 alcoholic drinks at the sports bar. When he pulled into the hotel parking lot, a police officer approached him and asked to look at his helmet. The police officer smelled alcohol on Applicant's breath and asked if he had been drinking. Applicant took a breathalyzer at the police station. He was over the legal limit. Applicant testified that he attended 20 hours of counseling. He told his alcohol counselor that this was his third DUI arrest. He does not recall receiving an alcohol diagnosis and was never advised to stop drinking alcohol. He reported his alcohol arrest to his employer after his court conviction. (Tr. 31-35)

SOR ¶ 1.d: On September 1, 2018, Applicant was arrested for DUI in [State 3]. He pled guilty and received 20 days in jail, suspended; a \$300 fine; ordered to use an interlock device on his car for a period of one year; three years probation; and ordered to attend alcohol counseling through the county health department. (Tr. 17-18; Gov 2 at 26; Gov 3 at 26; Gov 4 at 2, 11; Gov 5; Gov 6)

Applicant's September 2018 arrest occurred on the Saturday of Labor Day weekend. He spent the day on a boat with friends. They would dock the boat at different restaurants throughout the day to drink mixed alcoholic drinks and eat. Applicant does not recall the number of alcoholic drinks he consumed during the day. He left the boat around 6:30 or 7 pm. He went to a restaurant after getting off the boat. He stopped drinking when he left the restaurant around 9 pm. While driving home, he rear-ended a car that was turning left at an intersection. The passengers in the other car were not hurt. Applicant had about \$500 damage to his car. When the police arrived at the accident scene, they smelled alcohol on Applicant's breath. He failed a failed a field sobriety test. A breathalyzer at the police station registered 0.16. (Tr. 35-39)

SOR ¶ 1.e: On May 15, 2021, Applicant was arrested for DUI in [State 3]. He pled guilty and was sentenced to 60 days in jail, suspended, and a \$250 fine. He lost his license for a period of one year. (Tr. 19, 53; Gov 7) At the time of his May 2021 arrest, Applicant was still on probation related to his 2018 conviction for DUI. An officer observed Applicant's vehicle swerving over the line and pulled him over. Applicant admits drinking about three or four alcoholic drinks before the arrest over a period of three hours at a

restaurant. He refused to take a breathalyzer test because he did not want to take it. He claims he reported his arrest to his supervisor after he was convicted. (Tr. 40-43)

Appellant testified that he has never been diagnosed with an alcohol disorder. No one has ever recommended that he abstain from alcohol. He never attended Alcoholics Anonymous (AA) meetings. He does not believe he is an alcoholic. He usually drinks alcohol on the weekends. He usually has three to four drinks over a few hours at a restaurant. He does not drink alcohol at home unless he has company. Before 2009, his alcohol consumption was higher while he served in the Navy. Applicant testified he drank alcohol on average of five to six times a week. He has never tried to stop drinking alcohol. He realizes that he should stop or curtail his drinking. Later, he testified he does not believe he needs to stop drinking. He just needs to stop making stupid decisions. (Tr. 48-52)

Applicant's license has not been reinstated yet. It has been over a year, so he intends to request a hearing to have his license reinstated. He has not driven after drinking alcohol since his May 2021, arrest for DUI. When he goes out, his friends drive him or he takes an Uber. The last time he went out drinking was the Saturday night before the hearing. He has never reported to work while intoxicated. (Tr. 53- 54)

Criminal Conduct

Applicant's five DUI arrests were cross-alleged under Criminal Conduct. (SOR ¶ 1.b) A May 27, 2002 arrest in [State 1] for operating a vehicle with a suspended license was also alleged. For this offense, Applicant pled guilty, was fined \$1,000, and served 48 hours in jail. Applicant was in the process of transferring to a new duty location in [State 3]. He drove from [State 3] to [State1]. He was pulled over for having a tail light out. He said it was the first and only time that he drove on a suspended license. He reported it to the Navy. He claims it did not violate the terms of his probation. He had to fly back to [State 3] to serve his 48-hour jail sentence. (SOR ¶ 2.a: Tr. 30-31; Gov 4 at 10)

Personal Conduct

SOR ¶ 3.a alleges that in response to Section 22, on his February 3, 2019, security clearance application, "Have you ever been charged with an offense involving alcohol or drugs?" Applicant answered, "Yes." He listed his September 2018 arrest for DUI. He is alleged to have deliberately omitted his alcohol-related arrests in July 1995, October 2000, and April 2011, which are alleged in SOR ¶¶ 1.a through 1.c.

SOR ¶ 3.b alleges that in response to Section 22, on his August 31, 2020, security clearance application, "Have you ever been charged with an offense involving alcohol or drugs?" Applicant answered, "Yes." He listed his September 2018 arrest for DUI. He is alleged to have deliberately omitted his alcohol-related arrests in July 1995, October 2000, and April 2011, which are alleged in SOR ¶¶ 1.a through 1.c.

Applicant testified that he misunderstood the question. He believed he was only required to list alcohol offenses within the last seven years. Applicant listed his November

2000 and July 1995 arrests on his previous security clearance application in 2009. He believed the question regarding alcohol-related offenses in Section 22 did not include alcohol arrests that he previously disclosed. The government was on notice of Applicant's 1995 and 2000 DUI arrests. (Tr. 20-22. 45-46; Gov 2, Section 22 at 33-34)

Applicant found the e-QIP security clearance applications in 2019 and 2020 confusing. He never intended to falsify his security clearance applications. He listed his 2018 DUI offense in response to section 22 on both his 2019 and 2020 security clearance applications. He did not list his 2011 DUI on either application. This coincides with Applicant's mistaken belief that he did not have to list alcohol offenses that were more than seven years old on his 2019 and his 2020 security clearance applications. I find SOR ¶¶ 3.a and 3.b for Applicant because he did not intend to deliberately withhold these offenses from the government. He misunderstood the question. (Tr. 21-22)

Character Evidence

Mr. D.A. wrote a letter on Applicant's behalf. He has known Applicant for over 11 years. He works with Applicant and also socializes with him outside of work. He states Applicant cares about doing the job correctly. Mr. D.A. understands the importance of national security. He believes Applicant is a valuable asset with knowledge, skill, and a work ethic that is tough to find. (AE B at 1)

The Principal of Logistics, at Applicant's employer states that Applicant has demonstrated an ability to go above and beyond his required duties for the past 12 years as an employee. Applicant is an honest, dedicated, and respected employee. (AE B at 2)

Applicant received the following Navy ribbons and medals: National Defense Service Medal (2); Navy Good Conduct Medal (6); Armed Forces Expeditionary Medal, Kosovo Campaign Medal (2); Armed Forces Service Medal (2); Navy/Marine Corps Achievement Medal (3); Navy/Marine Corps Commendation Medal (2); Meritorious Unit Commendation; Coast Guard Special Operations Service Ribbon; Coast Guard Meritorious Unit Commendation; and the Global War on Terrorism Service Medal. (AE A) Applicant also provided a photo of his house. (AE C)

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 Directive presumes there is a nexus or rational connection between proven conduct under any of the Guidelines and an applicant's security eligibility. Direct or objective evidence of nexus is not required." ISCR Case No. 18-02581 at 4 (App. Bd. Jan. 14, 2020) (citing ISCR Case No. 15-08385 at 4 (App. Bd. May 23, 2018)).

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 [or her] 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

Alcohol Consumption

AG ¶ 21 articulates the Government's concern about alcohol consumption, "Excessive alcohol consumption often leads to the exercise of questionable judgment or

the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness."

AG ¶ 22 lists conditions that could raise a security concern and may be disqualifying in this case including:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder; and

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

AG ¶¶ 22(a) and 22(c) apply. Between July 1995 and May 2021, Applicant was arrested on five occasions for alcohol-related driving incidents involving the police and the courts. He was convicted of four DUIs in July 1995, October 2000, September 2018, and May 2021. He was convicted for DWI in April 2011. He has a history of habitual alcohol consumption to the point of impaired judgment which resulted in five alcohol-related arrests over a 16-year-period.

AG ¶ 23 details conditions that could mitigate security concerns including:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

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

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

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), 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, [App. A] ¶ 2(b).

I find none of the mitigating conditions apply. Applicant has a long history of drunk driving offenses, with his most recent arrest for DUI occurring in May 2021, after the SOR was issued. While there is no evidence that Applicant was diagnosed with an alcohol disorder, he has long history of drinking and driving while intoxicated. Between 1995 to 2021, he incurred five DUI and DWI convictions. He attended court-ordered counseling, but does not seem to comprehend the gravity of the situation. He continues to drink alcohol, but relies on friends or a ride-sharing service on nights when he drinks alcohol. Despite his assertions, I cannot conclude that Applicant's extremely poor judgment to drive while under the influence of alcohol is safely in the past. His long history of alcohol-related driving offenses casts doubt on his current reliability, trustworthiness, or judgment. Alcohol consumption security concerns are not mitigated.

Criminal Conduct

AG ¶ 30 describes the security concern about criminal conduct, "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 lists two conditions that could raise a security concern 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 was arrested for DWI in April 2011 and for DUI in July 1995, October 2000, September 2018, and May 2021. In May 2002, he was arrested for operating a vehicle with a suspended license. These misdemeanor-level offenses are serious in that they entailed a risk of death, bodily injury, and property damage to Applicant and other drivers. AG ¶¶ 31(a) and 31(b) are established.

AG ¶ 32 describes four conditions that could mitigate security concerns including:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

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

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

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

None of the Criminal Conduct mitigating conditions apply. Applicant has a long history of alcohol-related offenses. His most recent arrest for DWI occurred three months after the SOR was issued. He still drinks alcohol on a weekly basis. While he states that he no longer drinks and drives, concerns remain due to his lengthy history of alcohol-related arrests and his history of demonstrated poor judgment of driving home after drinking alcohol. In May 2002, Applicant defied the court's order and drove while on a suspended license. Considering his history of alcohol-related driving offenses and the recency of his last DUI arrest in May 2021, it is too soon to conclude the concerns under Criminal Conduct are mitigated.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

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. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

(a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and

(b) refusal to provide full, frank, and truthful answers to lawful questions of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination.

AG ¶ 16 lists conditions that could raise a security concern and may be disqualifying in this case including:

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

The SOR alleges Applicant deliberately omitted his arrests for DUI in July 1995, October 2000, and arrest for DWI in April 2011, in response to Section 22 on his 2019 and 2020 security clearance applications. Applicant listed his 1995 and 2000 DUI arrests on a security clearance application he completed in June 2009. He testified that he misread the questions in Section 22 of on his February 2019 and August 2020 security clearance applications. He believed he only needed to disclose alcohol-related offenses that occurred within seven years before completing the security clearance application. He listed his September 2018 DWI on both the 2019 and 2020 security clearance applications because it was within the seven-year timeframe. The July 1995, October 2000, and April 2011 DWI and DUIs occurred more than seven years before he completed his SCA. I find Applicant's explanations credible. He disclosed his 2018 DUI on both the 2019 and 2020 security clearance applications. This was the most recent DUI at the time Applicant completed both applications. He disclosed his July 1995 and October 2000 DUI arrests on a previous security clearance application in June 2009. He put the government on notice about his multiple alcohol-related driving offenses. Personal conduct security concerns are found for Applicant.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an Applicant's eligibility for a security clearance by considering the totality of the Applicant's conduct and all the 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), “[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 Guidelines G, J, and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 65-year-old employee working for a defense contractor. I considered he is a high school graduate with some college credit. I considered his service in the Navy from March 1986 to April 2009. He retired with an Honorable Discharge at the rate of senior chief (E-8). I considered Applicant’s favorable references and his awards and decorations earned during his service in the Navy.

I find the allegations under Guideline E, Personal Conduct for Applicant. He misread the questions on his 2019 and 2020 security clearance applications. He did not intentionally omit his 1995, 2000 and 2011 alcohol-related arrests on these applications.

Despite these favorable factors, security concerns remain under the Alcohol Consumption and Criminal Conduct concerns because of Applicant’s long history of alcohol-related driving offenses with his most recent DUI arrest occurring after the SOR was issued. Not enough time has passed to determine whether Applicant will successfully avoid future alcohol-related offenses. Alcohol Consumption and Criminal Conduct 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 G:	AGAINST APPLICANT
Subparagraphs 1.a through 1.e:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a through 2.b:	Against Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraphs 3.a through 3.b:	For 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 eligibility for access to classified information. Eligibility for access to classified information is denied.

Erin C. Hogan
Administrative Judge