



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



In the matter of:)
)
) ISCR Case No. 21-01440
)
Applicant for Security Clearance)

Appearances

For Government: Daniel P. O’Reilley, Esq., Department Counsel
For Applicant: *Pro se*

09/06/2022

Decision

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the financial considerations, criminal conduct, and drug involvement and substance misuse security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On September 3, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, financial considerations, Guideline J, criminal conduct, and Guideline H, drug involvement and substance misuse. Applicant responded to the SOR on September 22, 2021, and requested a hearing before an administrative judge. The case was assigned to me on June 3, 2022.

The hearing was convened as scheduled on July 28, 2022. Government Exhibits (GE) 1 through 8 were admitted in evidence without objection. At Applicant’s request, I left the record open until August 25, 2022, for Applicant to provide documents to support his case. On August 25, 2022, he submitted Applicant’s Exhibits (AE) 1 through 6, which were admitted in evidence without objection.

During preliminary matters, Department Counsel moved to amend SOR ¶ 3.a to reflect a cross-allegation of the information contained in SOR ¶¶ 2.b and 2.e, as opposed to a cross-allegation of SOR ¶¶ 2.a and 2.e. There being no objection, I granted the motion to amend SOR ¶ 3.a to reflect a cross-allegation of the information contained in SOR ¶¶ 2.b and 2.e in order to conform to the evidence. I provided Applicant an opportunity to seek a continuance because of the change in the SOR, but Applicant declined and stated he was ready to proceed with the hearing despite the aforementioned SOR amendment.

Findings of Fact

Applicant is a 47-year-old whose employment with a defense contractor is contingent upon obtaining a security clearance. He has worked for an employer that does not require that he hold a security clearance since about July 2020. From approximately 2007 until about July 2019, he alternated between being self-employed and working for government contractors in the information technology (IT) field. He earned a bachelor's degree in 1999. He was married from August 2016 until April 2022, when he finalized his divorce. However, he has lived separate and apart from his ex-spouse beginning in about 2019. He has a former stepson who is 20-years-old and two daughters who are 25 and 17 years old. His youngest daughter lives with Applicant and he is financially responsible for her. He provides financial support as needed for his adult child. He was awarded a position of public trust in 2007. (Transcript (Tr.) at 23-36; GE 1, 2)

The SOR alleged that Applicant had eight delinquent debts totaling about \$49,000. The majority of the total of Applicant's SOR delinquencies is comprised of two Federal student loans totaling about \$41,500 (SOR ¶¶ 1.a and 1.b). Applicant also has delinquent credit cards (SOR ¶¶ 1.c through 1.f) and medical debts (SOR ¶¶ 1.g and 1.h). In his SOR Response, Applicant admitted the Guideline F allegations contained in ¶¶ 1.a through 1.d and 1.f with additional comments. He denied the Guideline F allegations contained in ¶¶ 1.e, 1.g., and 1.h with additional comments. Applicant's admissions are adopted as findings of fact. Despite Applicant's denials in his SOR Response, those allegations are established by the Government's evidence, including credit reports. (SOR Response; GE 1-5; AE 1, 2, 4)

Applicant provided a June 21, 2022 document from the Department of Education that reflects that the delinquent student loans alleged in SOR ¶¶ 1.a and 1.b are in good standing as of that date. Applicant testified that, beginning about a year ago, he contacted his student loan service provider and made nine monthly payments of \$143 and one payment of \$149 in order to become eligible for an income-based repayment plan. Applicant also provided a document from his loan servicer stating that he is currently enrolled in an income-based repayment plan with no required payments until about August 2023, at the earliest. From approximately 2010 until 2020, Applicant did not make any payments on these student loans. (Tr. 20, 38-45; SOR Response; GE 1-5; AE 1, 2)

Applicant provided a July 2022 letter from the creditor showing that he has entered into a payment arrangement with it to pay \$90 per month on the \$6,419 credit-card debt in SOR ¶ 1.c until it is satisfied. He began making these payments in about May 2022. This account became delinquent in about July 2019 when Applicant lost a job. (Tr. 45-47; SOR Response; GE 1-5; AE 4)

Applicant has not taken any action to address the credit card debt for \$692 alleged in SOR ¶ 1.d. The latest activity date on the credit reports for this account is August 2019. (Tr. 47; Response to SOR; GE 2-5)

Applicant claimed that, in February 2022, he sent a dispute letter to the credit-card company holding the debt for \$509 in SOR ¶ 1.e. The basis of his dispute is that he does not believe that he owes the full amount alleged. Applicant has not heard back from the creditor and has not tried to contact the creditor again. He has not made any payments on this debt. He did not provide a copy of his dispute letter or any documentation supporting his dispute. (Tr. 47-50; Response to SOR; GE 2-5)

Applicant has not taken any action to address the credit card debt for \$447 alleged in SOR ¶ 1.f. The activity date on the credit report for this account is April 2014. He plans to address this debt in the future. (Tr. 50; Response to SOR; GE 2, 3)

Applicant claimed that he disputed the medical debts listed in SOR ¶¶ 1.g and 1.h because he had medical insurance through his employer. The debts were incurred as a result of a hand injury Applicant suffered in 2017. Applicant claimed he sent a letter disputing these debts to the medical provider and believes that he received a letter from the provider acknowledging that he no longer owed the debts. Applicant did not provide any documentation to corroborate that he disputed the debt. He also did not provide any documentation showing that his dispute of the debt had been resolved in his favor or that it is no longer owed. These debts appear on the 2019 credit report but not on the 2020 or 2021 credit reports. (Tr. 51-52; Response to SOR; GE 3)

In about 2001, Applicant filed a petition in Chapter 7 Bankruptcy and received a discharge. Applicant purchased a home about 22 years ago. In 2006 or 2007, he deeded the home to his parents in order to avoid it being foreclosed upon. Despite living in another home, Applicant's parents pay the approximately \$1,267 mortgage each month. Applicant pays his parents about \$700 each month to go towards that mortgage. He lost his job in approximately July 2019 and claims that loss of employment caused his current financial difficulties. Applicant earns about \$46,000 per year at his current job. He would make more money if he worked for the government contractor that requires him to hold a security clearance. (Tr. 25-33; GE 1, 2)

Applicant has a significant history of criminal offenses, including drug-related offenses. In about September 2018, he was charged with second degree child abuse and assault in State A after a physical altercation with his then 15-year-old stepson. Applicant claims that he got in his stepson's face and grabbed his stepson by the shirt collar after hearing his stepson cursing. He claims his stepson suffered a "scratch" from the altercation. Applicant stated that his stepson's grandfather filed the charges against

him, but agreed to drop the charges after discussing the incident with Applicant. State A dropped the charges against Applicant and the charges were expunged. (Tr. 52-58; Response to SOR; GE 1, 2; AE 5)

In about May 2016, Applicant was arrested and charged with felony threat to kidnap or injure a person and misdemeanor simple assault in City B. He spent the night in jail. This charge arose from an incident where Applicant and his then girlfriend (now ex-spouse) were arguing in or around their vehicle on the side of the road after a night out at a club. Applicant claimed there was no physical contact between him and the alleged victim, but that he was upset and continued to "mouth off," after the police arrived, so he was arrested. He claimed that the charges against him were dropped and that the alleged victim did not press charges. Throughout the clearance investigative process, and until after significant cross-examination, Applicant consistently confused this arrest with his 2018 arrest. (Tr. 60-65; GE 2, 6)

In about March 2011, Applicant was arrested and charged with felony possession of a dangerous controlled substance with intent to distribute in State A. He was convicted of this crime. Stemming from the same arrest, he was also charged with two other misdemeanors relating to drug possession, but the prosecutor moved to nolle prosequi these misdemeanor charges and they were dismissed. Applicant received a sentence of five years in jail with four years, nine months and ten days suspended, and three years of probation. He has complied with all of the terms of this conviction. (Tr. 65-67; Response to SOR; GE 1, 2, 6)

In about April 2011, Applicant was indicted on two criminal counts in federal district court. The first count was conspiracy to commit theft of government property, a felony. The second count was theft of government property, also a felony. In about 2009 and 2010, Applicant and an associate were selling stolen U.S. Government computers that Applicant claims were no longer in use. Applicant claims that his role in this scheme was to make sure the computers were clean and then re-install software on them. He also received some of the profits from the sale of these stolen computers. Applicant pleaded guilty to count one of the indictment, while count two was dismissed. He was sentenced to two months in prison and was on supervised release for two years. He has complied with all of the terms of this conviction. (Tr. 72-76; Response to SOR; GE 2, 7)

In April 2005, Applicant was arrested and charged with misdemeanor carrying a concealed weapon in State C. Applicant claims that he had a gun in his car because he had been shooting at a gun range the day before the arrest. The police found the gun when they pulled him over for a moving violation. Applicant was convicted and received a 90-day suspended sentence, which he completed without incident. (Tr. 76-77; GE 1, 2, 6; AE 3)

In November 1997, Applicant was arrested in State D for having marijuana in his car and charged with felony maintaining a vehicle for keeping controlled substances. This charge was dismissed. He was also charged with felony possession with intent to distribute a nonnarcotic schedule I controlled substance. This charge was reduced to a lesser misdemeanor charge of which Applicant was convicted. Finally, he was charged

with and convicted of misdemeanor possession of drug paraphernalia. However, in 1998 he was pardoned by the Governor of State D for the possession of drug paraphernalia conviction for a reason not in evidence. (Tr. 77-78; Response to SOR; GE 1, 2, 6)

In March 1997, Applicant was arrested in State D and charged with felony possession of a weapon in a safe school zone and felony possession of a concealed deadly weapon. Both of these charges were dismissed. (Tr. 78-79; Response to SOR; GE 2, 6)

In February 1995, Applicant was arrested and charged with felony fraud, theft over \$500 in State D. Applicant was also charged with felony conspiracy and misdemeanor theft under \$500. Applicant was allowing merchandise to be stolen from his place of employment without reporting it. He was ultimately found guilty of misdemeanor theft under \$500 and misdemeanor agreement to engage in misdemeanor criminal conduct. He was ordered to pay restitution for the property that was stolen. (Tr. 79-80; Response to SOR; GE 2, 6)

In October 1994, Applicant was charged with misdemeanor larceny for shoplifting "blunts" from a pharmacy in State D. The charges against him were dismissed. (Tr. 80-81; Response to SOR; GE 6)

Applicant used marijuana with varying frequency since the late 1990s, when he was in college.¹ While there were several years when he was not using it, such as while he was on probation, he used marijuana again consistently from about 2014 until about August 2019. He used it about two to three times per week during this timeframe. Applicant failed to divulge his 2014 through 2019 marijuana usage on his Questionnaire for National Security Positions (SF 86) that he certified in August 2019. He claimed that he failed to divulge this marijuana use because he thought that he only had to report drug use that was "harder" than marijuana, and because he did not consider marijuana to be illegal. In March and April 2010, Applicant attended and completed pre-trial drug counseling as a condition of one of his drug offenses. (Tr. 67-72, 82-83; GE 1)

Under Guideline J, the SOR alleged Applicant's 2016 arrest, his two 2011 arrests, his 2005 arrest, his two 1997 arrests, and his 1995 and 1994 arrests. Applicant admitted these arrests in his SOR Response, with additional comments. Applicant's Guideline J admissions are adopted as findings of fact. Under Guideline H, the SOR cross-alleged Applicant's 2011 and 1997 drug-related arrests. (Tr. 60-81; Response to SOR; GE 6, 7; AE 3, 5)

Applicant acknowledged that he has made mistakes in the past and claims to have learned from them. He stated that he has been keeping out of trouble and that he

¹ Any adverse information not alleged in the SOR, such as Applicant's 2001 bankruptcy, his 2018 arrest, his marijuana use, or his failure to divulge this use on his SF 86, cannot be used for disqualification purposes. It may be considered when assessing Applicant's rehabilitation, in the application of mitigating conditions, and for the whole-person analysis.

has matured. He notes his involvement with his church and his attempts to become a role model for those younger than him. He says he is now more of a family man. He blames his youth and lack of maturity for some of his illegal actions and points out that many of his arrests happened decades ago. Applicant provided character reference letters from those who know him noting his strong character, selflessness, good work ethic, willingness to learn from his mistakes, and positive role in the community. Applicant also provided a document showing that he has completed a 2021 course in cybersecurity awareness. (Tr. 21-22, 83-85; Response to SOR)

Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny 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 that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must 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." The applicant has the ultimate burden of persuasion to obtain a favorable security 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 access to classified information. 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 of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline F, Financial Considerations

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one’s means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
-
- (c) a history of not meeting financial obligations.

Applicant has a history of financial delinquencies that includes Federal student loans, credit cards, and medical debt. The evidence is sufficient to raise AG ¶¶ 19(a) and 19(c), thereby shifting the burden to Applicant to provide evidence in mitigation.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

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

(b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

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

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

Applicant attributed his financial problems to his loss of a job in July 2019. This cause was beyond his control. However, Applicant has had financial issues for much of his adult life, and these problems pre-date his July 2019 loss of employment. For example, Applicant received a Chapter 7 bankruptcy discharge in 2001. He also signed over the deed to his residence in about 2007 in order to avoid his home being foreclosed upon.

There is documentary corroboration that the Federal student loans alleged in SOR ¶¶ 1.a and 1.b have been rehabilitated through payment and are no longer delinquent. SOR ¶¶ 1.a and 1.b are concluded for Applicant.

Applicant provided a document showing that he has a payment arrangement and began making payments of \$90 per month to the creditor in SOR ¶ 1.c. However, he made those payment arrangements and payments after the SOR was issued. An applicant who begins to resolve security concerns only after having been placed on notice that his or her clearance is in jeopardy may lack the judgment and willingness to follow rules and regulations when his or her personal interests are not threatened. See, e.g., ISCR Case No. 17-04110 at 3 (App. Bd. Sep. 26, 2019).

Applicant provided no documentary evidence of payments or favorable resolution of the debts in SOR ¶¶ 1.d, 1.e, and 1.f. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). While Applicant claimed that he sent a dispute letter to the creditor for the debt in SOR ¶ 1.e because he did not agree with the balance, he did not provide a copy of this letter. He therefore did not provide documented proof to substantiate the basis of his dispute. This failure to provide documentation of his dispute, his failure to follow-up with the creditor, and his failure to present proof that he contacted the credit reporting agencies means that he did not provide sufficient evidence of his actions to resolve the issue. The debt in SOR ¶ 1.e also appears on all three of the credit reports in evidence.

Applicant stated that he intends to pay the SOR debts in ¶¶ 1.d and 1.f. However, intentions to pay debts in the future are not a substitute for a track record of debt

repayment or other responsible approaches. See ISCR Case No. 11-14570 at 3 (App. Bd. Oct. 23, 2013).

Applicant disputed the medical debts contained in SOR ¶¶ 1.g and 1.h. because he believed those debts should have been covered by insurance. He claimed that he disputed these debts with the creditor. While he did not provide documentation to corroborate his dispute, these debts do not appear on a credit report in evidence after the September 2019 credit report. There are reasons other than a favorable resolution for debts to no longer appear on a credit report. However, these debts were less than seven years old and should not have aged off. I find that the debts in SOR ¶¶ 1.g and 1.h. are mitigated under AG ¶ 20(e) because these debts no longer appear on subsequent credit reports, because Applicant claimed that he contacted the creditor, and because the basis for his dispute was reasonable.

Despite the fact that I have found in his favor on some of the SOR debts, overall, I am unwilling to find that Applicant acted responsibly under the circumstances, or that he made a good-faith effort to pay or otherwise resolve several of his SOR debts. His financial issues are ongoing. His extended history of financial problems detracts from his ability to show that his financial issues are unlikely to recur. His financial issues are not mitigated and they continue to cast doubt on his current reliability, trustworthiness, and good judgment.

Guideline J, Criminal Conduct

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Applicant'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 conditions that could raise a security concern and may be disqualifying. The following is potentially applicable:

(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 has been arrested and charged with criminal offenses at least eight times in his adult life. Several of these arrests were for felonies, including one for stealing from the U.S. Government. The above disqualifying condition is applicable.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

(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;

(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.

Applicant has been involved in illegal activity for much of his life. One of his crimes involved the theft of government property while he arguably held a position of public trust, proving that he was willing to take advantage of his relationship with the government in order to benefit himself. In addition to the arrests listed in his SOR, he was arrested again in 2018 for violent conduct where he admitted he grabbed and scratched his then stepson. He also illegally used marijuana until August 2019. For these reasons, I do not believe there has been sufficient evidence of rehabilitation through the passage of time without recurrence or that Applicant's criminal behavior is unlikely to recur. None of the mitigating conditions apply.

Guideline H, Drug Involvement and Substance Misuse

The security concern for drug involvement and substance misuse is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. Controlled substance means any "controlled substance" as defined in 21 U.S.C. 802. Substance misuse is the generic term adopted in this guideline to describe any of the behaviors listed above.

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following is potentially applicable in this case:

(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

Applicant was arrested in 2011 and 1997 for marijuana possession and marijuana possession with an intent to distribute. Marijuana is a controlled substance and is illegal under federal law. The above disqualifying condition is applicable.

AG ¶ 26 provides conditions that could mitigate security concerns. The following are potentially applicable:

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

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility; and

(c) satisfactory completion of a prescribed drug treatment program, including, but not limited to rehabilitation and aftercare requirements without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Applicant used and possessed marijuana for over 20 years. His involvement, including use of two to three times per week, was frequent. His three years of abstinence pales in comparison to his period of involvement and detracts from his ability to show that his marijuana involvement is unlikely to recur. He has not provided evidence that he has changed or avoided the environment where he used marijuana, nor has he provided a signed statement of intent to abstain from all drug involvement. While Applicant completed a drug rehabilitation course sometime in 2011, he used marijuana again after completing the course. None of the mitigating conditions are applicable, and Applicant's illegal drug use is not mitigated.

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 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 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 Applicant's positive character references. I have incorporated my comments under Guidelines F, J, and H in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations, criminal conduct, and drug involvement and substance misuse security concerns.

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 F:	AGAINST APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Subparagraphs 1.c-1.f:	Against Applicant
Subparagraphs 1.g-1.h	For Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a-2.h:	Against Applicant
Paragraph 3, Guideline H:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Benjamin R. Dorsey
Administrative Judge