



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



In the matter of:)	
)	
[Redacted])	ISCR Case No. 21-01367
)	
Applicant for Security Clearance)	

Appearances

For Government: Andre Gregorian, Esq., Department Counsel
and William Miller, Esq., Department Counsel

For Applicant: Troy L. Nussbaum, Esq.

09/13/2022

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines J (Criminal Conduct), D (Sexual Behavior), and E Personal Conduct). Eligibility for access to classified information is granted.

Statement of the Case

Applicant submitted a security clearance application (SCA) on April 4, 2019. On July 26, 2021, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DSCA CAF) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines J, D, and E. The DOD CAF acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016).

Applicant answered the SOR on August 8, 2021, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on August 27, 2021, and he provided Applicant with copies of the documents he intended to submit at the hearing. (Hearing Exhibit (HX) I.) Scheduling of the hearing was delayed by COVID-19 health precautions. The case was assigned to me on February 15, 2022. On March 28, 2022, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on April 6, 2022. On April 4, 2022, Applicant's attorney entered an appearance and requested that the hearing be postponed for two months. I granted the request.

On March 28, 2022, DOHA notified Applicant that the hearing was scheduled to be conducted by video teleconference on June 21, 2022. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 5 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AX) A through H, which were admitted without objection. I kept the record open until July 21, 2022, to enable Applicant to submit additional evidence. He timely submitted AX I through N. AX N consisted of two MP4 film clips that could not be printed, but the parties agreed on a narrative description of the content of the film clips. (HX II.) DOHA received the hearing transcript (Tr.) on June 30, 2022. The record closed on July 21, 2022.

Amendment of SOR

At the hearing, Department Counsel moved to amend the SOR as follows:

Amend SOR ¶ 1.c by replacing the words "prior to March 2019" with the words, "in March 2019."

Amend SOR ¶ 1.d by replacing the words "your son" with the words, "your wife's son."

Amend SOR ¶ 2.b by replacing "Captain's Mask" with "Captain's Mast," and replacing "under Other Than Honorable Conditions" with "with a general discharge under honorable conditions."

Add SOR ¶ 1.h alleging as follows: "In January 2021, you were arrested and charged with assault and battery, and a show cause order was issued against you for a protective order violation."

Add SOR ¶ 1.i alleging as follows: "In September 2020, you were charged with violation of a protective order. In September 2021, you pled no contest, were found guilty, and were sentenced to one day in jail."

Applicant did not object to any of the amendments, but he requested that he be given 30 days after the hearing to submit additional evidence responding to SOR ¶ 1.h. I granted Department Counsel's multiple motions to amend the SOR and Applicant's request for additional time to respond. I kept the record open until July 21, 2022. (Tr. 16.)

After the hearing, the parties submitted an agreed written version of the SOR as amended. (HX III.)

Findings of Fact

In Applicant's answer to the SOR, he admitted all the allegations under Guidelines J and D, with exculpatory explanations. He did not expressly admit or deny the Guideline E allegations, which cross-allege the allegations under Guidelines J and D. His limited admissions are incorporated in my findings of fact and discussed in more detail below.

Applicant is a 39-year-old business systems analyst employed by defense contractors since December 2017. He was terminated by another defense contractor in May 2019 for using a government computer for personal email and was briefly unemployed. (Tr. 111-12.) He worked for other defense contractors from June 2019 until he was hired by his current employer in April 2020. He received a security clearance in August 2019. (Tr. 120-21.)

Applicant was born in a foreign country. He immigrated to the United States with his mother and two sisters in 1991, and his father stayed behind in their native country. Applicant became a U.S. citizen in 2014. (Tr. 22.) He graduated from high school in 2001, attended college for one semester, and then enlisted in the U.S. Navy. (Tr. 23-24.) He served on active duty in the Navy from January 2002 to December 2017 and received a general discharge under honorable conditions. While on active duty, he received the Navy and Marine Corps Achievement Medal five times, the Good Conduct Medal three times, and multiple service ribbons and qualification badges. (AX E.) He received a security clearance in about 2012. (Tr. 30.) He has a 90% disability for multiple stress injuries to his limbs, feet, and back, as well as depression and anxiety. (Tr. 34-35.)

Applicant married in February 2015, separated in December 2018, and divorced in March 2020. He has a 16-year-old daughter from a previous relationship and two children with his ex-wife, ages eight and six. (Tr. 26.)

In 2008, Applicant was charged with felony kidnapping and assault. In his answer to the SOR, he admitted he was charged, but he denied that he was guilty. He testified that he was in a relationship with an older woman and the relationship became toxic when she started having conversations with an ex-boyfriend. During an argument, he attempted to leave their residence, but she blocked the door. She hit him, scratched him, and spat at him. He grabbed her by both arms and pinned her down on the bed. After he released her and started to leave, she called the police. Applicant waited in his car for the police to arrive, believing that she would be arrested. (Tr. 55-59.) Court records reflect that he was found not guilty of felony kidnapping. Disposition was deferred on the assault charge, conditioned on him having no contact with the woman for one year. After a year had passed, the assault charge was dismissed. (GX 4 at 1-2.)

In 2010, Applicant was charged with destruction of property. In his answer to the SOR, he stated that his cohabitant was upset about his long working hours and she

changed the lock on the door of their residence while he was at work. He came home from work at about 3:00 or 4:00 a.m. and found that his cohabitant had changed the door lock. He called the police and showed the police officer a bank statement reflecting that he lived there. According to Applicant, the police officer advised him that he was entitled to break in and recover his belongings but that he might be responsible for repairing the door. He broke in, retrieved some clothing and personal affects, put them in his car, and left. (Tr. 61-64.) He was charged with intentional damage to property. He was convicted and sentenced to 30 days in jail (suspended) and unsupervised probation. He was required to pay restitution to repair the door. (GX 4 at 2.) In his answer to the SOR and at the hearing, he stated that the judge told him to take his legal advice from an attorney and not from a police officer. (Tr. 65.)

In 2012, Applicant, then a petty officer first class, was accused of sodomizing a female shipmate, a petty officer second class, without her consent. He admitted having anal intercourse with the female sailor, but he maintained that it was consensual. The female sailor recanted her initial complaint and stated that they initially engaged in consensual anal intercourse, but that she changed her mind and tried to move away but did not tell Applicant to stop. Investigators concluded that the female sailor's accusation was unfounded. Applicant's commander imposed nonjudicial punishment on both parties for violating an order prohibiting sexual activity between sailors on the ship. Applicant's punishment was a reduction from petty officer first class to petty officer second class, restriction for 45 days, 45 days of extra duty, and forfeiture of one half of his pay per month for two months. The female sailor's punishment was forfeiture of one half of her pay for two months, and her recommendation for advancement was withdrawn. (GX 2 at 1-2.)

At some time not reflected in the record, Applicant was promoted back to petty officer first class. In July 2016, while Applicant was still married, he was accused by a female sailor, a petty officer second class, of sexual harassment by "play fighting" with her, placing his hands around her neck and shaking her, and putting his hand on her thigh while they were riding in a military vehicle. Applicant testified that he and the female sailor worked together and became friendly. According to Applicant, their friendship became flirtatious and "semi-sexual," to the point where she sent him "racy" photos of herself. He denied asking the female sailor to have sex with him. (Tr. 36-40.) He believes that the female sailor made a report of sexual harassment in order to obtain a reassignment. (Tr. 42.) However, he admitted at the hearing that, even if there had been no sexual harassment, his relationship with the female sailor was inappropriate. (Tr. 46.) In April 2017, he received nonjudicial punishment for sexual harassment. He was reduced from petty officer first class to petty officer second class and processed for administrative separation. (GX 2 at 3-4.) In December 2017, he received a general discharge under honorable conditions. (AX E.)

Applicant and his wife separated in December 2018 and divorced in March 2020. Applicant testified that after the divorce, his ex-wife would taunt him by calling him while she was having sex with her boyfriend, sending him photos of her and her boyfriend having sex, and threatening him with violence. She told their son that he would never see

his father again because she intended to make sure that he would go to jail. (Tr. 70-71.) Applicant's divorce attorney described his ex-wife as "one of the most spiteful, vindictive and caustic personalities I've come across in 19 years of representing clients in family law issues." (AX I.)

After Applicant and his wife separated, she moved out of the family home, but she left clothing and other possessions in the home. In early March 2019, after repeatedly asking her to remove her belongings, Applicant decided to come up with the most hyperbolic statement he could think of to get her attention, and he told his wife that he would burn her possessions if she did not remove them from the home. (Tr. 72.) She responded to the threat by obtaining a protective order on March 7, 2019, with an expiration date of March 11, 2019. (GX 3 at 7-8.)

On March 10, 2019, Applicant's wife accused Applicant of threatening to kill her sister and injure her son, and Applicant was charged with violating the protective order and using profane and threatening language. (GX 3 at 9.) Applicant denied making threats or using profane and threatening language. (Tr. 80.) He testified that when his son was three or four years old, he was afraid of many things, and Applicant encouraged him to confront his fear. Applicant testified that he would ask his son, "Why are you scared of this? You want daddy to beat it up?" During a video telephone call, his son said that he was afraid of "auntie" and his mother's older son' Appellant's wife heard the conversation and interpreted it to mean that Applicant offered to beat up "auntie" and her son. (Tr. 81-82.)

Applicant's wife obtained another protective order on May 1, 2019, prohibiting "hostile contact" with his wife and prohibiting all contact with her son. On May 10, Applicant was charged with violating the order. (GX 3 at 10.) The record does not reflect the factual basis for this charge. On May 30, 2019, the charge was dismissed due to insufficient evidence. (GX 3 at 3, 11.) The protective order violation was *nolle prosequi* on May 30, 2019. (GX 4 at 2; AX I at 1.)

Another show cause order was issued against Applicant in August 2019 for violating protective orders. The evidentiary basis for this order appears to have been Applicant's unwelcome visits and messages regarding visitation with his son. When Applicant learned that he was charged with violating protective orders, he turned himself in. (Tr. 77-78.) In November 2019, his wife's attorney requested that the show cause order be removed from the hearing docket because the parties had resolved the matter. (AX F; Tr. 157.) The show cause order was dismissed in on November 19, 2019. (GX 3 at 15.) Applicant and his ex-wife now communicate solely by email. (Tr. 97.)

In his post-hearing submission, Applicant submitted screen shots of Facebook pages and film clips showing his ex-wife's boyfriend belittling him, threatening him, and harassing him when he met with his ex-wife to pick up his son for visitation. (AX L, M, and N.) In September 2020, the boyfriend accused Applicant of assaulting him. Applicant testified that he was in front of a police station waiting to pick up his son from his ex-wife, when the boyfriend began directing abusive language toward him and attempted to block

him for leaving his car. Applicant had agreed to pick up his son for visitation in front of the police station instead of the daycare center because his ex-wife had suggested it. (Tr. 162.) Applicant was able to get past the boyfriend, and he went into the police station and filed a complaint against the boyfriend. The police reviewed the camera footage from the front of the police station and charged the boyfriend with assault. The boyfriend then accused Applicant of assault. On March 10, 2021, both parties agreed to withdraw their complaints, and the charge against Applicant was dismissed. (AX H; Tr. 91-95.)

When Applicant filed his complaint against his ex-wife's boyfriend, he discovered that his ex-wife had filed a complaint in another jurisdiction, alleging violation of the May 2019 order prohibiting "hostile contact." At the hearing, Applicant admitted violating the order when he responded to hostile emails and messages by calling her "a lot of choice words." He was charged with using profane and threatening language. The trial was delayed by COVID-19. In September 2021, he pleaded "no contest" and was sentenced to one day in jail. (Tr. 88-89.)

Applicant sought and received therapy from about June 2019 to January 2020. He testified that he realizes that he was bitter because he wanted to keep the family together but his ex-wife refused to do her part. (Tr. 155.) He now attends church regularly and has a good relationship with his pastor. (Tr. 99.) He also has increased his contact with his parents, nieces, nephews, and sister for guidance and support. He has established contact with his father, who remained in Applicant's country of birth, and has received helpful guidance about dealing with his personal problems. (Tr. 98-103.) He testified that he has learned that his ex-wife "knows exactly how to push my buttons." (Tr. 184.) In his group therapy sessions, he has learned from people having similar issues and hearing how they deal with them. He knows that if he gets upset, he has enough support from his family, his church, and his therapists to help him deal with it. (Tr. 188.)

A former shipmate who has known Applicant for more than 17 years respects him as a former mentor and a trustworthy friend. (AX D at 4.) Applicant's immediate supervisor for the past four years describes him as energetic, hard-working, reliable, honest, mature, and patient. (AX D at 1.) Another supervisor, a retired Navy commander, describes him as thoughtful, kind, poised, reliable, and mature. (AX D at 2.) Applicant recently received an "impact" financial award for performing "above and beyond what is expected." (AX C.)

Policies

"[N]o 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 applicants 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 § 2.

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, an administrative judge applies these guidelines 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 and 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 that 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 made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense 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. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

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 burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

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). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

Analysis

Guideline J, Criminal Conduct

The concern under this guideline is set out in AG ¶ 30: “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.”

The evidence is not sufficient to establish the kidnapping alleged in SOR ¶ 1.a, but it is sufficient to establish the assault. It is sufficient to establish the destruction of property alleged in SOR ¶ 1.b and to establish that Applicant threatened to burn his wife's property as alleged in SOR ¶ 1.c. It is sufficient to establish that the protective orders alleged in SOR ¶¶ 1.d, 1.e, and 1.i and the show cause order alleged in SOR ¶ 1.f were issued, even if some of them were unwarranted. It is sufficient to establish the arrest for assault and battery and the show cause order alleged in SOR ¶ 1.h and the violation of a show cause order alleged in SOR ¶ 1.i. Finally, it is sufficient to establish that the sexual behavior cross-alleged in SOR ¶ 1.g occurred.

The following disqualifying conditions under this guideline are established by the evidence:

AG ¶ 31(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

AG ¶ 31(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.

The following mitigating conditions are potentially applicable:

AG ¶ 32(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;

AG ¶ 32(c): no reliable evidence to support that the individual committed the offense; and

AG ¶ 32(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.

AG ¶ 32(a) is established for the conduct in 2008 and 2010, which was the product of dysfunctional relationships with women with whom he terminated contact. It is established for the two Navy incidents in 2012 and 2017, which both involved violations of military orders and which, as such, are unlikely to recur. It is not established for the various protective orders and show cause orders. Although Applicant's marriage has been terminated, the potential for continued discord over the custody of Applicant's son remains.

AG ¶ 32(c) is established for the charge of felony kidnapping in 2008 and the alleged threats that were the basis for violation of a protective order in 2019. It is not established for the other criminal conduct alleged in the SOR.

AG ¶ 32(d) is established. Applicant is apparently well-regarded at work. His turbulent marriage has ended, and more than three years have passed since the last encounter between him and his ex-wife. He has sought and received counseling, and he has gained a better understanding of how to deal with situations where his ex-wife "pushes the right button."

Guideline D, Sexual Behavior

The concern under this guideline is set out in AG 12:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. . . .

The following disqualifying conditions under this guideline are relevant:

AG ¶ 13(a): sexual behavior of a criminal nature, whether or not the individual has been prosecuted;

AG ¶ 13(c): sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress; and

AG ¶ 13(d): sexual behavior of a public nature or that reflects lack of discretion or judgment.

AG ¶ 13(a) is established. Although Applicant was not punished for sexual offenses under the Uniform Code of Military Justice (UCMJ), his sexual conduct on both occasions violated an order prohibiting sexual activity between sailors aboard the ship. His disobedience violated Article 92, UCMJ, 10 U.S.C. § 892, a criminal statute.

AG ¶ 13(c) is established. In each of the two sexual incidents, Applicant was a petty officer first class in a supervisory position, and his sexual partner was a sailor junior to him, leaving him vulnerable to exploitation by threats to disclose his conduct.

AG ¶ 13(d) is established. Applicant's conduct was not public, but it reflected a lack of judgment.

The following mitigating conditions are relevant:

AG ¶ 14(b): the sexual behavior happened so long ago, so infrequently, or under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

AG ¶ 14(c): the behavior no longer serves as a basis for coercion, exploitation, or duress; and

AG ¶ 14(d): the sexual behavior is strictly private, consensual, and discreet.

AG ¶¶ 14(b) and 14(c) are established. The most recent security-significant sexual behavior was five years ago and no longer serves as a basis for exploitation because Applicant is no longer in the Navy.

AG ¶ 14(d) is not established. While Applicant's sexual activity may have been private, the 2017 conduct was not consensual, and neither instance of sexual behavior was discreet.

Guideline E, Personal Conduct

The security concern under this guideline is set out in AG ¶ 15: "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. . . ."

The following disqualifying conditions under this guideline are potentially relevant:

AG ¶ 16(c): credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information; and

AG ¶ 16(e): personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress

by a foreign intelligence entity or other individual or group. Such conduct includes . . . engaging in activities which, if known, could affect the person's personal, professional, or community standing.

AG ¶ 16(c) is established. Applicant has a long history of dysfunctional and sometimes violent relationships with women, resulting in a multitude of minor offenses reflecting bad judgment and lack of self-control.

AG ¶ 16(e) is established. Applicant's sexual behavior while in the Navy affected his personal and professional standing, resulting in reductions in rate and the eventual premature termination of his military service. His history of domestic violence and multiple violations of protective orders could affect his professional and community standing in the civilian community.

The following mitigating conditions are potentially relevant:

AG ¶ 17(c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

AG ¶ 17(d): the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

AG ¶ 17(f): the information was unsubstantiated or from a source of questionable reliability.

AG ¶ 17(c) is established. Most of the domestic incidents involved minor misconduct, such as profanity and name-calling. The last incident resulting in a show cause order was in August 2019, more than three years ago.

AG ¶ 17(d) is established. Applicant has acknowledged that he overreacted to his ex-wife's taunting. He sought and received counseling, and he gained insight into the reasons for his earlier behavior. He has a reputation among his colleagues at work for being thoughtful, reliable, patient, and mature.

AG ¶ 17(f) is established for the allegation of kidnapping alleged in SOR ¶ 1.a, the alleged threats alleged in SOR ¶ 1.d, and the assault alleged in SOR ¶ 1.h. It is not established for the other allegations in the SOR.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines J, D, and E in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Applicant was candid, sincere, and credible at the hearing. It is clear that he was involved in a series of dysfunctional relationships that were the causes of the conduct alleged in the SOR. It is also clear that he was the victim of repeated harassment by his vindictive ex-wife and her boyfriend. His toxic marriage is over, and he and his ex-wife have minimized their contact. He accepted responsibility for the last domestic incident in August 2019 that was eventually adjudicated in September 2021. He has obtained counseling and understands how he should have reacted to his wife's behavior. He now enjoys a reputation as a thoughtful, reliable, mature, and patient adult.

After weighing the disqualifying and mitigating conditions under Guidelines J, D, and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has mitigated the security concerns raised by his criminal conduct, sexual behavior, and personal conduct.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline J (Criminal Conduct):	FOR APPLICANT
Subparagraphs 1.a-1.i:	For Applicant

Paragraph 2, Guideline D (Sexual Behavior):	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant
Paragraph 3, Guideline E (Personal Conduct):	FOR APPLICANT
Subparagraph 3.a:	For Applicant

Conclusion

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

LeRoy F. Foreman
Administrative Judge