



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



In the matter of:

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ISCR Case No. 19-02675

Applicant for Security Clearance

**Appearances**

For Government: Nicholas Temple, Esq., Department Counsel

For Applicant: Ryan C. Nerney, Esq.

05/11/2022

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**Decision**

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DAM, Shari, Administrative Judge:

Applicant mitigated the security concerns raised under the Psychological Conditions and Personal Conduct guidelines. National security eligibility is granted.

**Statement of the Case**

On July 19, 2017, Applicant completed and signed a Questionnaires for National Security Positions or security clearance application (SCA). On December 13, 2019, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant, detailing security concerns under Guideline I (Psychological Conditions) and Guideline E (Personal Conduct). On February 14, 2020, Applicant answered the SOR and requested a hearing. (Answer)

On February 17, 2021, Department Counsel was ready to proceed and on March 17, 2021, the case was assigned to me. On February 7, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting it for February 24, 2022. The hearing was held as scheduled using Microsoft Teams video teleconference.

During the hearing, Department Counsel offered Government Exhibits (GE) 1 through GE 7 into evidence. Applicant submitted Applicant Exhibits (AE) A through AE Q. All exhibits were admitted without objections.

The record remained open until March 7, 2022, to give Applicant an opportunity to submit additional documents. Applicant timely notified me that he had no further exhibits to submit. On March 15, 2022, I received the transcript of the hearing (Tr.).

### **Findings of Fact**

In his Answer, Applicant admitted the allegation contained in SOR ¶ 1.a and denied the allegation in SOR ¶ 1.b. He admitted in part and denied in part the allegation in SOR ¶ 2.a, and he admitted the allegation in SOR ¶ 2.b. His admissions are accepted as findings of fact.

Applicant is 53 years old. He has a bachelor's degree. He works for a defense contractor (DC) as a systems engineer. He started this position in June 2017. Prior to that position, he worked for another defense contractor (UBT) from June 2014 to April 2017, at which time he was fired. He obtained a secret security clearance in 2015. (Tr. 22-25; GE 1; AE D) In July 2017, he submitted his pending SCA. (GE 1)

Applicant married his wife in 1999. Applicant described their marriage as contentious at times. On March 3, 2016, they became embroiled in a serious physical altercation, which resulted in his arrest for assault and domestic violence. His wife filed for divorce later in March 2016. The divorce was finalized in January 2017. They have two sons, ages 20 and 18. (Tr. 22-23; AE J)

### **Psychological Conditions**

In accordance with his divorce attorney's recommendation, on April 11, 2016, Applicant started counseling with Dr. B., a licensed psychologist. He told Dr. B. that he was seeking treatment to address a recent incident that occurred between him and his wife of 16 years. He explained that his wife has had uncontrolled spending problems over the years, much of which occurred without his knowledge. On March 3, 2016, he made a comment to his wife about her weight, and she then ran after him and hit him in the ear. He then slapped her. When the police arrived and saw the red mark on her face, they arrested him and took him to jail for two nights. He denied having any sadness or remorse about his wife's filing for divorce. He wanted to know if he had an anger problem or whether his angry responses were reasonable given her spending problem. He admitted that he made angry remarks to her and lost his temper, but denied that it was an ongoing issue. He told Dr. B. that "when he has that reaction (rx) it is well justified." (Tr. 27; GE 4)

Dr. B. preliminarily diagnosed Applicant with an adjustment disorder, unspecified; and rule out impulse control disorder; need more information. She recommended that he participate in psychotherapy once a week. Subsequently, Dr. B saw Applicant 13 times for therapy between April 25 and December 5, 2016. (GE 4)

In October 2016, the court dismissed the charges of assault and domestic violence based on Applicant's current participation in counseling. (GE 7) Applicant reported that the judge recommended that he participate in an anger management course. He declined to do that because he felt the situation was not his fault. (GE 2 at 18)

On May 23, 2019, Applicant participated in a psychological evaluation requested by DOD CAF for purposes of determining his security eligibility. Dr. G., a clinical psychologist, performed the evaluation. Dr. G. interviewed Applicant, reviewed his 2017 SCA, and other DOD documents. Applicant completed a Personality Assessment Inventory (PAI), which is a psychological test used to measure a test taker's attitude. (GE 3 at 5)

During the clinical interview with Dr. G., Applicant discussed his 17-year marriage and his wife's exorbitant spending. He disclosed that he went to jail for a weekend because he slapped his wife in the face. He said they had a large argument when he learned, after he was in an automobile accident, that he did not have insurance because she had canceled it. (GE 3 at 3) According to Applicant, the argument about insurance arose on March 2, 2016. (GE 2 at 17)

In response to Dr. G.'s inquiry about problems with prior employers, Applicant disclosed that in 2004 he was fired from a cellular company after he encountered an issue, which he tried to resolve with management, with whom he did not get along. He said he had also left a nasty note on an employee's car that was parked in a manner such that he could not move his car in the parking lot. He mentioned that he ran into a problem with a woman who was critical of him at UBT, and was probably involved with his termination from there. (Tr. 103, 81-82, GE 3 at 4) (The derogatory information about his employment with the cellular company is not alleged in the SOR. Accordingly, it will not be discussed in the analysis of disqualifying conditions, but may be analyzed under the section of mitigating conditions and the whole-person concept.)

In discussing the results of the PAI, Dr. G. opined that Applicant's defensive profile suggests that he is unable to acknowledge common problems. "He shows difficulties in the area of impulse control and behavior." (GE 3 at 6) He also "shows an elevation in the area of aggressive behaviors" and is "quick-tempered when frustrated or confronted." (*Id.*)

In the Diagnostic Impression and Prognosis section of his report, Dr. G. stated that Applicant "presents as having features that show moderate security concerns. His presentation suggests that he does not respond effectively or appropriately to feedback or appraisal of his work behaviors. He appears to respond with rationalization." (GE 3 at 7) He diagnosed Applicant with Personality Disorder, unspecified, based on his "limited insight into behaviors, risk taking, rationalization of behaviors and externalization of blame as well as other test results." (*Id.*) Dr. G. gave Applicant a "somewhat guarded" prognosis. (*Id.*)

On January 31, 2021, Applicant voluntarily participated in a second psychological evaluation with Dr. W., a clinical psychologist. Dr. W. performed a clinical interview, reviewed records, including Dr. C.'s evaluation, and had Applicant complete the Minnesota Multiphasic Personality Inventory-Restructured Form (MMPI-2-RF), which is another form of psychological testing.

During the clinical interview, Applicant described his former wife's secret spending habits and stated that she hid about "\$250,000 from me." (AE M at 3) He related the

March 3, 2016 incident in which the police were called because she attacked him and came “at me with a knife,” and he defended “himself by grabbing her hands and leaving marks.” (*Id.*) The police put him in jail for the weekend, and he subsequently did not have access to his children for about six months. The charges were later dismissed. (*Id.*; AE M at 5) Dr. W. said the MMPI-2-RF suggested that at this time Applicant had an “above-average level of emotional adjustment and life satisfaction.” (AE M at 4) There were no elevations in personality scales associated with aggression. (*Id.*)

Dr. W. concluded that Applicant currently does not demonstrate aggressive threats. “His personality profile indicates no antisocial tendencies or proneness toward acting-out behaviorally.” (AE M at 5) He stated that Applicant’s primary “defense mechanisms of intellectualization and rationalization seem to influence his interactions and how he separates ideas.” (AE M at 6) “Past negative incidents with employers appear to have resulted because of personality idiosyncrasies rather than illegal, deceitful, or predetermined malice.” (AE M at 5) He opined that Applicant’s “profile presents as having low security concerns as he appears to have adapted to the environment since the previous assessment (2019) when he first came to the attention of superiors.” (AE M at 6) Dr. W. did not report a diagnosis.

## **Personal Conduct**

### **(a) Termination from UBT**

In April 2017, Applicant was terminated from a position with UBT, a federal contractor, for violating its rules and policies from 2016 to 2017. The company found that:

[Subject] had violated several base policies including using a government furnished computer for personal use (emails, dating websites, group forums, and comics). Along with this, the customer reported that the subject had been spending extended periods of time making personal phone calls discussing personal matters including his divorce. The Subject was also observed to be viewing inappropriate material on his personal phone. (GE 5)

Applicant disclosed his termination from UBT in Section 13A-Employment Activities of his July 2017 SCA. He stated that he was “fired over use of private cell phone which somebody considered inappropriate.” (GE 2 at 14) He explained that:

I was going through a divorce, my cell phone usage was necessary during the day and I still got more work done than any of my peers. I was also warned for having a game screenshot as my background, but plenty of government folks around me were gaming far more than I ever did and far more openly.

On January 30, 2018, a government investigator interviewed Applicant about the above termination and other matters. The investigator drafted a report of that interview (ROI). DOHA subsequently sent Applicant a copy of the ROI and asked him to review it

and submit corrections. At the end of September 2019, Applicant returned his copy with two pages of comments and notations next to certain paragraphs of the ROI. (GE 2)

During his investigative interview, Applicant was asked questions related to the reasons why he was terminated from UBT. He said no one told him why he was fired, but he knew it related to his cell phone use for making calls, texting, emailing his divorce lawyer, and receiving texts and group messages from friends. (GE 2 at 8-9). He denied that he had work performance issues at his job. (GE 2 at 11)

Applicant admitted to the investigator that he used his government phone and laptop for email and calls to his lawyer, and denied any other uses. (GE 2 at 9) Later in the interview, he admitted that he used his government laptop for reading comics, accessing hobby groups, news sites, and for personal matters. He said there were no restrictions against doing that when he was on his break. (GE 2 at 10)

When asked by the investigator if he had viewed pornography while at work, Applicant initially failed to answer the question, but then stated that he did not deny it. He had viewed it, on his cell phone, after receiving anonymous texts or pranks with such content from other employees and women he was dating. He said examples of those texts included videos, links to websites, or phone calls. (GE 2 at 10) He did not intentionally show those materials to anyone else. Someone who intruded on his space could have viewed them however. (GE 2 at 11)

Applicant told the investigator that he did not believe that his use of government equipment for some of the purposes previously stated was prohibited, as long as it did not interfere with his work. He was aware that there were restrictions on viewing pornographic material while at work. He stated that using government equipment to access pornographic websites would be wrong, and that he never did that. (GE 2 at 12) In his annotations to a paragraph on GE 2 at 11, he denied that he ever engaged in sexual misconduct at work. (GE 2 at 4)

Applicant testified that he used his work computer to check his personal emails, as do other employees. He used it to read comics. He said employees were allowed to do those activities before work and during their lunch. He denied that he used the computer for dating websites. He said it would have been impossible because of the government's firewall. (Tr. 47-51, 84-85) On a few occasions while at work, Applicant viewed pornographic material on his phone that was sent to him by friends and a few women he was dating. Some of his work friends also sent him texts or videos. (Tr. 86-89)

On cross-examination, Department Counsel noted that the investigator reported on page 11 of GE 2 that Applicant told him that he had used his cell phone to visit websites that had pornographic content two or three times a day between April 2016 and March 2017, while at work. Department Counsel remarked that Applicant did not make any corrections to that statement in the ROI. Applicant responded, stating that he must not have read that statement correctly. (Tr. 93, 97; GE 2 at 11) He admitted that he visited pornographic websites at home, but denied visiting them while at work. However, he

testified that if he did view such content at work, he might have done so while in the bathroom where he did not consider himself to be at work. (Tr. 90-91)

Applicant testified that when he was terminated in April 2017, he did not know the reason for the termination other than his cell phone usage. He did not receive a termination letter. (Tr. 46, 79, 82) He has not been fired from an employer since this incident. (Tr. 53) He took a four-hour behavior modification course in January 2020, in response to his termination. (Tr. 60; AE I)

(b) March 2016 Arrest for Misdemeanor Assault

During his January 2018 background investigation, Applicant discussed with the investigator his marriage and 2016 arrest. He told the investigator that on March 2, 2016, he was in an automobile accident and learned that he did not have auto insurance because his wife failed to renew it. He and his wife then became embroiled in a verbal argument, as they were discussing the issue with their insurance agent. (GE 2 at 17)

On the following evening of March 3, 2016, Applicant confronted his wife about her spending habits after reviewing their bank statements. This argument led to a physical altercation in which his wife punched him several times. He tried to hold her arms down, and he slapped her twice. When the police arrived, they noticed that she had red marks on her face and arm. His wife pressed charges against him, and he was arrested and charged with misdemeanor assault and domestic violence. (GE 2)

While testifying, Applicant emphasized that the argument on March 3, 2016, started because he discovered that his wife had recently spent a lot of money and lied to him about it. After he confronted her about the bills he found, the fight escalated to yelling and hostility, including his commenting on her weight. At some point, she approached him and he tried to disengage from her, but she ran after him and hit his ear. He said she was pushing him into the kitchen where she grabbed a knife from the cutting block and started to swing it at him. He grabbed her wrist hard and got the knife out of her hand. She then came after him again, at which point he struck her. After she left the house, a neighbor called the police. (Tr. 54-55, 68-74)

Department Counsel cross-examined Applicant about the fact that he never mentioned that his wife grabbed a knife during their physical altercation on March 3, 2016, when he recounted the fight to Dr. B. in April 2016; when he spoke to the investigator in January 2018; or during his evaluation with Dr. G. in January 2019. The first mention of his wife holding a knife was during his interview with Dr. W. in January 2021. In response, Applicant said he was sure he mentioned the knife whenever the issue came up, and was certain he told the police. (Tr. 75) He appeared surprised by that inquiry.

Applicant said that his overall mood and mental health have improved since his divorce became final in 2017. Both of his children live with him fulltime. (Tr. 38-39) He said his previous diagnosis of adjustment disorder was related to his divorce and loss of children at the time he saw Dr. B. in April 2016. (Tr. 45) He has not been charged with

any crime since the domestic violence allegation. (Tr. 60) He maintains a relationship with his former wife, who comes over to his house periodically. (Tr. 39)

#### Letters of Recommendation and Performance Evaluations

Applicant submitted a letter from his former supervisor. Mr. H. stated Applicant worked for him from 2012 through 2017. He was not at the office on the day Applicant was terminated. He was aware that employees use their cell phones at work and government laptops for personal issues throughout the day. He never observed a problem with Applicant while he worked for him. (AE E) Two authors complimented Applicant for his volunteer work as a soccer coach and as a father. (AE E, AE O)

Applicant submitted his Employment Performance Evaluations for 2018, 2019, 2020, and 2021. They generally rated Applicant as a solid performer. (AE G, AE N)

#### **Policies**

This national security eligibility action was taken under Executive Order 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 *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), which became effective within DOD on June 8, 2017.

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied 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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an "applicant is

responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Finally, as emphasized in Section 7 of EO 10865, [a]ny determination under this order adverse to an applicant 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 I: Psychological Conditions**

AG ¶ 27 describes the security concern relating to this guideline:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 describes a condition that could raise a security concern and may be disqualifying in this case:

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness.

In April 2016, Dr. B., a licensed psychologist, diagnosed Applicant with an adjustment disorder, unspecified, and rule out impulse control disorder. In May 2019, Dr. G., a licensed psychologist, diagnosed Applicant with a Personality Disorder, unspecified. He made this diagnosis on the basis of Applicant’s limited insight into his behaviors, a defensive profile and rationalization of his behaviors. He opined that Applicant’s condition may demonstrate a moderate security concern. His prognosis was “somewhat guarded.”



The aforementioned conditions could impair Applicant's reliability and trustworthiness. The evidence established a disqualifying condition under AG ¶ 28(b).

AG ¶ 29 describes the following conditions that could mitigate security concerns under this guideline:

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

Applicant's most recent psychological evaluation was performed in January 2021, and was favorable to him. Dr. W. found that Applicant's profile presents no aggressive threats, and indicates he is a low security concern. He arrived at his opinion having used the same diagnostic methods as Dr. G. employed in January 2021. Based on this evaluation, Applicant's past adjustment disorder appears to be resolved, and there is no current diagnosis of an impulsive disorder or personality disorder, unspecified. Dr. W. did not report any diagnosis. Based on Applicant's performance evaluations from 2018 through 2021 and letters of recommendation, there is no evidence of a current employment problem or behavioral issue. The evidence establishes mitigation under AG ¶¶ 29(c), 29(d), and 29(e).

### **Guideline E: Personal Conduct**

AG ¶ 15 explains the security concerns relating to personal conduct:

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.

AG ¶ 16 describes a condition that could potentially raise a security concern and may be disqualifying in this case:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, 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. This includes, but is not limited to, consideration of:

- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations; and
- (4) evidence of significant misuse of Government or other employer's time or resources.

In April 2017, Applicant was terminated from his position with a federal contractor for a pattern of violating his employer's policies starting in 2016. Applicant used his employer's computer for personal activities, which included sending and receiving emails, visiting non-work related websites and group forums. He also spent long periods of time on his cell phone for personal matters and to view inappropriate materials. The evidence established the above disqualifying conditions under AG ¶¶ 16(d)(2), (3), and (4).

In March 2016, Applicant became embroiled in a serious physical and verbal altercation with his wife, which resulted in his arrest for assault and domestic violence. That criminal conduct was not alleged under any other guideline, but did demonstrate disruptive behavior and raised questions about his trustworthiness and judgment. The evidence established the above disqualifying condition under AG ¶ 16(d)(2).

AG ¶ 17 provides conditions that could mitigate security concerns raised under this guideline. Two may potentially apply:

- (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; and
- (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.

There is evidence to establish some mitigation under AG ¶ 17(c) for both SOR allegations. The allegations underlying 's termination of Applicant in April 2017 included multiple incidents of Applicant's misuse of his employer's equipment and his personal cell phone usage while at work. The offenses spanned two years and were not minor. However, for the past four and a half years, Applicant has been successfully working for DC, as documented by performance evaluations. Applicant's arrest for domestic violence was not a minor offense, given the circumstances surrounding it. However, six years have passed since it occurred in March 2016 and he has been divorced since January 2017. Both sons now reside with him and his former wife sometime visits him. There is no evidence of subsequent volatile encounters between them.

There is minimal evidence to establish mitigation under AG ¶ 17(d) as to either SOR allegation. Applicant admitted that he misused his employer's computer at times, and that he used his cell phone for personal matters, including viewing pornographic materials. He exhibited little remorse over his misconduct at his former job and at times minimized it. He took a four-hour behavioral conduct course in 2020 to help him address his past termination. He offered no insight into his role in the circumstances that may have contributed to the volatile fight with his wife in March 2016, and felt the situation was entirely her fault. He stated that since getting divorced in early 2017, his overall health has improved and indicated that some of the stressors he was experiencing 2016 and early 2017 have lessened.

### **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), the ultimate determination of whether to grant national security eligibility must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case.

Applicant is 53 years old. He is divorced, since early 2017, and has two children who live with him. He coaches soccer for school-age children. He is a systems engineer for a defense contractor. He has worked for defense contractors since 2012, and his current employer since 2017. His employer has rated him as a solid performer. He likes his job.

In March 2016, Applicant and his wife engaged in an explosive physical argument, resulting in his arrest. After six months of counseling, his criminal case was dismissed by the court. In January 2017, Applicant and his wife divorced. Since then, his two boys have moved in with him. Applicant said he sees his former wife periodically when she visits him. There is no evidence that they have engaged in physical altercations since March 2016.

From sometime in 2016 to April 2017, Applicant worked for a defense contractor, at which time he was terminated for misusing his employer's equipment and using his

personal cell phone at work too often and at times inappropriately. He admitted some of the allegations, including that he received pornographic materials on his cell, which were sent to him by other employees and women he was dating. Although an investigator reported that Applicant stated that he used his cell phone several times a day for that purpose over two years, Applicant denied that he did so. He testified that he misread the ROI when he was reviewing it, and thus did not annotate the investigator's ROI on the issue. The investigator did not testify.

Dr. W.'s January 2021 psychological evaluation sufficiently rebuts Dr. G.'s evaluation that was performed by Dr. G. two years earlier. Dr. W. found Applicant presented with a low security risk. He stated that Applicant did not pose any aggressive threats or show a tendency toward acting-out. He found that Applicant has adapted to his environment since his previous assessment in January 2019. He provided no diagnosis.

Overall, the record evidence sufficiently resolves concerns about Applicant's national security eligibility and suitability for a security clearance.

### **Formal Findings**

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

Paragraph 1, Guideline I:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant Applicant eligibility for access to classified information. National security eligibility is granted.

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Shari Dam  
Administrative Judge