



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



In the matter of:)
)
) ISCR Case No. 21-00868
)
Applicant for Security Clearance)

Appearances

For Government: Andre M. Gregorian, Esquire, Department Counsel
For Applicant: *Pro se*

01/05/2022

Decision

GALES, Robert Robinson, Administrative Judge:

Applicant mitigated the security concerns regarding alcohol consumption but failed to mitigate the security concerns regarding psychological conditions. Eligibility for a security clearance is denied.

Statement of the Case

On December 1, 2013, Applicant applied for a security clearance and submitted a Questionnaire for National Security Positions (SF 86). On May 19, 2021, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudications Facility (CAF) issued a Statement of Reasons (SOR) to him under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended and modified; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended and modified (Directive); and Directive 4 of the Security Executive Agent (SEAD 4), *National Security Adjudicative Guidelines* (December 10, 2016) (AG), effective June 8, 2017.

The SOR alleged security concerns under Guidelines I (psychological conditions) and G (alcohol consumption), and detailed reasons why the DCSA adjudicators were

unable to find that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The SOR recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a sworn statement, dated June 17, 2021, Applicant responded to the SOR and elected to have his case decided on the written record in lieu of a hearing. A complete copy of the Government's file of relevant material (FORM) was mailed to Applicant by DOHA on August 10, 2021, and he was afforded an opportunity, within a period of 30 days, to file objections and submit material in refutation, extenuation, or mitigation. In addition to the FORM, Applicant was furnished a copy of the Directive as well as the Adjudicative Guidelines applicable to his case. Applicant received the FORM on August 27, 2021. His response was due on September 26, 2021. Applicant chose not to respond to the FORM, for as of October 19, 2021, no response had been received. The case was assigned to me on November 18, 2021. The record closed on October 19, 2021.

Findings of Fact

In his Answer to the SOR, Applicant admitted, with substantial comments, all of the factual allegations pertaining to psychological conditions (SOR ¶¶ 1.a. through 1.c.) and alcohol consumption (SOR ¶¶ 2.a. - 2.b.). Applicant's admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 50-year-old employee of a defense contractor. His current position and commencement date were not reported, but it appears that he assumed his position after January 2021. He received a bachelor of science degree in 2001. He enlisted in the U.S. Army in January 1991 and served on active duty until May 1993, when he was honorably discharged. From September 1998 until August 2001, he served in the Army National Guard in the active reserve. Commissioned out of the Reserve Officer Training Corps (ROTC) in August 2001, he served on active duty with the U.S. Army until his retirement as a lieutenant colonel in January 2021. He was married in 1996. He has six children, born in 1998, 1999, 2001, 2003, 2005, and 2007. He has held a variety of security clearances, up to an including top secret (TS), with access to sensitive compartmented information (SCI).

Military Career, Awards and Decorations

During his military career, he was assigned overseas in various middle east and combat locations (Riyadh, Saudi Arabia for 16 months; Kabul, Afghanistan for 2 months; Arifjan, Kuwait for 12 months on two separate occasions; Bagram, Afghanistan for 5 months; and Baghdad, Iraq for 9 months). He was awarded the Bronze Star Medal (2 awards); the Meritorious Service Medal (3 awards); the Joint Service Commendation Medal; the Army Commendation Medal; the Joint Service Achievement Medal; the Army Achievement medal (4 awards); the Meritorious Unit Commendation; the Army Superior Unit Award; the Army Good Conduct Medal; the National Defense Service Medal (2

awards); the Afghanistan Campaign Medal (3 awards); the Iraq Campaign Medal; the Global War on Terrorism Expeditionary Medal; the Global War on Terrorism Service Medal; the Army Service Ribbon; the Overseas Service Ribbon (5 awards); the NATO Medal; the Combat Action Badge; the Army Parachutist Badge; the Army Air Assault Badge; and the Army Driver and Mechanic Badge. (Item 4, at 60)

Psychological Conditions and Alcohol Consumption

Applicant grew up in a troubled family setting with a mother – a crack cocaine and marijuana user – who died of a drug overdose when he was 13-years old, and a father – an alcoholic – who died when Applicant was 21-years old. At the age of 18, Applicant converted to a religion where alcohol was not tolerated, and it took him three to four years to stop drinking. (Item 3, at 3) He acknowledged that in 2008, during his third combat tour, he started experiencing various unspecified symptoms of post-traumatic stress disorder (PTSD). By 2011, he was screened for depression after his fourth combat tour, and he began seeking treatment voluntarily. However, because the treatment brought more flashbacks, and it frightened him, he walked away from treatment. He now admits that his action in quitting treatment was a mistake. The PTSD symptoms and depression increased to what he called “a peak” in 2018 and 2019. As a result, he began to drink after 26 years of complete sobriety. (Item 1, at 3) When asked by a doctor why he had waited so long to wait before reporting his trauma-related effects, he responded that he wanted to try to document his problems without damaging his career. (Item 4, at 61)

In late February 2019, after his tour to Saudi Arabia, Applicant initiated counseling at an Army health and support center. In March 2019, he was diagnosed with major depressive disorder, unspecified mood disorder, and severe alcohol abuse according to a psychiatrist, as well as Applicant’s memory. As a result of the alcohol diagnose and assessment, one week later he was admitted to the Substance Use Disorder Clinical Care (SUDCC) program under AR 600-85, *The Army Substance Abuse Program* (November 26, 2016). The SUDCC program directive, setting forth the patient’s obligations and requirements, or the staff program protocols, do not appear in the casefile. He was also “officially” diagnosed with PTSD in March 2019 by another doctor, and in June 2019, he was treated in trauma care and prescribed three medications: Zolof (an anti-depressant), Minipress (an anti-anxiety to treat PTSD symptoms), and Ambien (for insomnia). (Item 1, at 3; Item 4, at 18, 61) Unfortunately, while these brief references to diagnoses and treatments appear in the case file, there are no medical records to be reviewed to verify them.

On August 23, 2019, while on temporary duty (TDY), he was scheduled to perform his duties as Command Chief of Inspections during an Inspector General (IG) inspection of a military battalion. After completing some preliminary functions, and attending a meeting regarding other activities that evening as well as the main inspection that was scheduled to take place the following day, he returned to his hotel, took his medication, and eventually went to dinner. After dinner, he went to a bar and consumed a double vodka tonic – a violation of the SUDCC program because he was to remain abstinent. He then went bar-hopping, during which he consumed more alcohol, in amounts he could not recall. He was aware that his phone battery had died. He intended to drive his rental car

back to his hotel, but at about 8:30 a.m. the following morning he found himself in the back seat asleep. He rushed to his hotel to shower, anticipating to go to the inspection, but instead, he felt light-headed and fell asleep – essentially passed out – on his bed. He was awakened by a phone call from the hotel receptionist, and spoke with his inspection team leader. Applicant missed most the duties of that day, arriving at 5:00 p.m. When subsequently asked by his deputy for an explanation, Applicant acknowledged that he was legally drunk both on August 23-24, 2019, and again on August 26, 2019, and that he drove a vehicle while drunk on both occasions. When asked if he was suicidal, Applicant responded “not at this time.” He also noted that he was a “chronic liar.” (Item 4, at 19-23, 24-28, 29-34, 48-49). On August 27, 2019, he was scheduled to appear at an inspection at another facility at 8:00 a.m. but failed to appear until 10:30 a.m., claiming he thought the meeting started at 9:00 a.m., and explaining that he got lost on the way to the meeting. (Item 4, at 19-23, 24-28, 29-34, 48-49)

As a result of Applicant’s conduct during his TDY, on September 9, 2019, an investigating officer (IO) was appointed to conduct an administrative investigation into allegations of misconduct during that TDY. The IO found: (1) Applicant failed to perform his duties as Chief of Inspection on August 24, 2019, and that his failure was the result of his voluntary abuse of alcohol the prior day; (2) his use of prescription drugs were not a contributing factor to his failure to perform his duties on August 24, 2019; (3) his failure to report to his assigned duties on August 27, 2019, was contributed to his use of prescription medication and his very recent drinking episode on August 23-24, 2019; and (4) he operated his vehicle in a wanton and reckless manner which had the potential to cause grave harm to others due to his excessive intoxication on August 23, 2019 and the morning of August 24, 2019. (Item 4, at 6-8, 9-10) The IO noted that Applicant was given a new SUDDC provider in September 2019, and that Applicant was scheduled to attend rehabilitation treatment for 35 days followed by a one-month program for trauma care. The IO also recommended that based on his findings, Applicant:

did drink excessively while in the SUDDC program, failed to perform his assigned duties, and in fact – wanton (sic) and recklessly drove while intoxicated which are violations of Articles 112 and 113 of the Uniform Code of Military Justice (UCMJ). In addition, recommend his IG credentials be revoked, appropriate punitive actions be taken, and that he continues with needed treatment until his immediate retirement from service.

(Item 4, at 7-8)

The Command Chief of Staff, a Major General, issued Applicant a General Officer Memorandum of Reprimand (GOMOR) on or about December 10, 2019. It stated, in part, that Applicant was “hereby reprimanded for being incapacitated for duty. On 23 August 2019, you consumed alcohol in an excessive amount resulting in you failing to perform your duties as Chief of Inspections during an Inspector General inspection. . . There is no excuse for your irresponsible and improper behavior. . . .” (Item 4, at 66) The GOMOR was placed permanently in his records. (Item 4, at 65) Applicant’s command recommended that he retain his clearance (TS/SCI) and access, and it was not suspended. (Item 4, at 1)

In response to a request from the Department of Defense (DOD) CAF, the predecessor of the DCSA CAF, a security clearance evaluation of Applicant was performed in July 2020 by a Forensic Psychologist at the Army Medical Center. The psychologist performed a clinical interview of unspecified duration on July 9, 2020; a review of behavioral health records and investigative paperwork, none of which were identified; and used a series of self-report symptom measurement instruments. (Item 3, at 1, 3) Based on the records he reviewed, the Forensic Psychologist reported that Applicant had been diagnosed with PTSD since 2019, and that he still received treatment; diagnosed with Unspecified Mood Disorder in 2019, and that he still received treatment; diagnosed with Major Depressive Disorder in 2019, and that he still received treatment; diagnosed with Alcohol Dependence in 2019, and that he still received consistent intensive treatment; and diagnosed with Alcohol Dependence, in Remission on July 10, 2020, and has been successfully maintaining his sobriety. Also mentioned was that “a provider note from 10 July 2020, which indicated that [Applicant] reported increased suicidal ideations. He has had relatively recent suicidal ideations with plans to complete suicide.” The Forensic Psychologist also stated that during his interview, Applicant reported that he “continues to have suicidal ideation and there is no evidence of strong mitigators of suicidal risk” (Item 3, at 2) The provider note and the basis for the note were not included in the casefile, and the Forensic Psychologist’s interpretation of Applicant’s actual comments was also missing from the casefile.

The self-report inventories that Applicant completed for the Forensic Psychologist were to measure suicidal thinking, anxiety, depression, and PTSD. Applicant completed Basis 24 – a leading behavioral health assessment tool designed to assess the outcome of mental health or substance abuse treatment from a client’s perspective – and scored 1.94; a Patient Health Questionnaire (PHQ 2) to assess the frequency of depressed mood over the past two weeks – and scored 21; a General Anxiety Disorder (GAD 7) assessment – and scored 11; the Columbia Suicide Severity Rating Scale (C-SSRS) – and scored 3; the Posttraumatic Stress Disorder Checklist for the *Diagnostic and Statistical Manual of Mental Disorders (5th Edition)* (DSM-5) (PCL5) – and scored 54; and the Alcohol Use Disorders Identification Test (AUDIT) – and scored 0. While there was no individual explanation for any of those scores, the Forensic Psychologist opined that the registered results suggested that Applicant is classified as high acute risk for self-harm. (Item 3, at 3-4)

The forensic diagnoses under DSM-5 were Posttraumatic Stress Disorder; Major Depressive Disorder; and Alcohol Dependence, in Remission. The Forensic Psychologist’s diagnostic impression and conclusions were, in part, as follows:

[Applicant] reported that he is maintaining sobriety from alcohol use and his treatment records support that assertion. [He] currently experiences psychiatric disorders that impair his ability to remain in the military. Most notably, [he] experiences recent and severe symptoms such as suicidal ideation. [He has not been able to control his psychiatric symptoms despite ongoing treatment. His symptoms remain labile and vulnerable to increases in severity. People with severe symptoms of depression and suicidal ideation may exhibit poor judgment and are disposed to mood states that

impair their ability to function in occupational settings such as the military. At this time, [he] does not demonstrate intact reliability, stability, and judgment.

(Item 3, at 4)

In response to the SOR, Applicant noted that he has undergone thorough and lengthy treatment for his index traumas, and his symptoms of PTSD have subsided. He is still seeking care and treatment for depression, and he has made significant progress. (Item 1, at 3)

Despite a plethora of references to medical records and clinical notes, as well as diagnoses and treatment for a variety of issues over the years, and indications that both the IO and the Forensic Psychiatrist had access to them, none of those materials were included in the casefile. It also remains unclear if any of the healthcare providers treating Applicant ever actually performed a mental health evaluation as described in DOD Instruction (DODI) 6490.4, *Requirements for Mental Health Evaluations of Members of the Armed Forces* (August 28, 1997); DOD Instruction 6490.1, *Mental Health Evaluations of Members of the Armed Forces* (October 1, 1997); or The American Psychiatric Association (APA) *Practice Guideline for the Psychiatric Evaluation of Adults*, 2nd Edition (June 2006). The security clearance evaluation requested by the DOD CAF and performed by the Forensic Psychologist does not necessarily constitute a Mental Health Evaluation under the above-cited sources.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, “no one has a ‘right’ to a security clearance.” (*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988)) As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information. The President has authorized the Secretary of Defense or his designee to grant an applicant 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.)

When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the guidelines in SEAD 4. In addition to brief introductory explanations for each guideline, the guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant’s eligibility for access to classified information.

An administrative judge need not view the guidelines as inflexible, ironclad rules of law. Instead, acknowledging 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. 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 meaningful decision.

In the decision-making process, facts must be established by “substantial evidence.” “Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all contrary evidence in the record.” (ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1)). “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 Government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive, and has the burden of establishing controverted facts alleged in the SOR. Once the Government has produced substantial evidence of a disqualifying condition, under Directive ¶ E3.1.15, the applicant has the burden of persuasion to present evidence in refutation, explanation, extenuation or mitigation, sufficient to overcome the doubts raised by the Government’s case. The burden of disproving a mitigating condition never shifts to the Government. (See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).)

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 as well. It is because of this special relationship that the Government must be able to repose a high degree of trust and confidence in those 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 as to potential, rather than actual, risk of compromise of classified information. Furthermore, “security clearance determinations should err, if they must, on the side of denials.” (*Egan*, 484 U.S. at 531)

Clearance decisions must be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” (See Exec. Or. 10865 § 7) Thus, nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant’s allegiance, loyalty, or patriotism. It is merely an indication the Applicant has or has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance. 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.

Analysis

Guideline I, Psychological Conditions

The security concern relating to the guideline for Psychological Conditions is set out in AG ¶ 27:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 28:

(a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;

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

(c) voluntary or involuntary inpatient hospitalization; and

(d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

In 2006, Applicant's wife and her boyfriend made allegations to the police and the Command that Applicant had threatened to kill them and Applicant's daughter, as well as kill himself. No-contact orders were issued to Applicant by the Command; he was directed to undergo a mental health evaluation; it was determined that Applicant was at significant risk of potential suicidal and/or homicidal action; it was later determined that he was a moderate risk to self and/or others; he was reported to be in violation of the no-contact orders; he was disciplined and reduced in grade; and he was diagnosed as a perpetrator of spouse abuse, as well as a narcissistic personality disorder. In 2012, Applicant's ex-wife accused him of sexually abusing their daughter.

In 2017, at the direction of the DOD CAF, Applicant was evaluated by a licensed clinical psychologist. She determined that Applicant has a documented history of narcissistic personality disorder, but also shows some of the atypical thinking such as unusual beliefs, and paranoia, odd speech, and social skill deficits such as a lack of close

friends, and social awkwardness commonly seen in an individual with schizotypal personality disorder. She added:

the diagnosis in this case would render the patient in need of consistent treatment (until symptoms remit, which is uncommon with diagnosis of this nature), but this has clearly not occurred at this point. My prognosis is poor, given the ingrained nature of his issues and poor likelihood for treatment compliance. His psychological symptoms could certainly impede his judgment. . . Based upon his legal history, volatile mood and behaviors, and his history of interpersonal conflicts, it appears that [Applicant] is likely to have impaired reliability.

Based solely on the facts briefly referred to above, AG ¶¶ 28(a), 28(b), and 28(c) have been established. AG ¶ 28(d) has not been established because, while there may be evidence of a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, there is little, if any, evidence to reflect any failure to follow a prescribed treatment plan related to the diagnosed condition(s) other than Applicant's decision not to attend some recommended family counseling sessions over a decade ago.

The guideline also includes examples of conditions that could mitigate security concerns arising from psychological conditions under AG ¶ 29:

(a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

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

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

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

The complete record reflects that before Applicant and his first wife went through marital discord, and for a period thereafter, he had a stellar military record; he was highly thought of by his Command and his units; his superiors and coworkers praised his duty performance, military bearing, professionalism, community-service activities; he received recognition for his performance; and he had an excellent reputation for honesty, integrity,

and trustworthiness. Character references saw no evidence of any suicidal or homicidal ideations, and never saw Applicant lose his temper or act irrationally. Applicant's reputation and background were summarily cast aside when allegations of misconduct arose.

Divorce and child custody disputes have been routinely known to become ugly and hostile, and the situation reported in this instance is not shocking or unusual, for it merely suggests a planned road map to success by one litigant against the other. One shocking or unusual feature in this case is the robotic manner in which there does not seem to be any analysis or investigation by the police or Command authorities to determine the truth of the allegations, explore the possible motivations for the allegations, or consider Applicant's repeated denials regarding those allegations, especially when he had a sterling reputation for honesty, integrity, and trustworthiness. No one in authority ever examined Applicant's ex-wife's allegations of an assault by an instructor while on a business trip; the alleged incident in the kitchen when she claimed she was cornered by a tenant; or her allegations of assault on their daughter in 2012. Perhaps they could have connected the dots between those allegations and the ones against Applicant.

As noted above, the only documented evidence of one of those allegations appears in the Military Protective Order which cites as the sole basis for the issuance of the order that Applicant's wife "is concerned for her safety and [Applicant has] shown behavior that could be interpreted as threatening." The exact statement was not recorded; there is no evidence that it was under oath; there is no evidence of an investigation into the truth of the allegations; it is unclear what the specific concerns of the wife were; and it is also unclear who made the interpretation that what was reportedly said was threatening. Despite unit reservations regarding the allegations, and Applicant's repeated denials, the initial steps to destroying Applicant's military career had begun. The local Baker Act – something now commonly referred to as the Red Flag Law – was applied, without due process, forcing Applicant to turn in his weapons, based solely on his wife's allegations; he was disciplined and reduced in grade for reportedly violating the no-contact orders, based on additional allegations by his wife; he was ordered to undergo a command directed mental health evaluation; and he was required to attend Family Advocacy Program and LSSC sessions.

Far more disturbing than the robotic manner in which certain actions were taken by the police and Command authorities, were the somewhat superficial and unexplained actions taken by the mental health providers within the military system, most of which cannot be considered mental health evaluations under DODI 6490.1, or DODI 6490.4. Applicant initially went through a number of interview sessions, generally consisting of between 35 and 50 minutes each, after which he was prescribed medications for depression, anxiety, panic disorder, and insomnia.

On November 29, 2006, and December 1, 2006, after being seen for merely 45 minutes, with no evidence of any psychological testing administered to Applicant, it was determined that he was "at significant risk of potential suicidal and/or homicidal action." Applicant's denials were disregarded because of "incongruent corroborating information," not otherwise identified or described. Additionally, the life skills element chief concluded

that Applicant “reflected delusions of persecution but no hallucinations.” The specifics of those delusions were not described or identified. It is interesting that, despite significant risk of potential suicidal and/or homicidal action, Applicant was not involuntarily hospitalized. Perhaps it was because those conditions were not as reported.

On February 26, 2007, again without being administered any psychological tests, based on the “apparent discrepancy in reports and history,” not otherwise identified or described, he was found to be at moderate risk to self and/or others, and given a diagnosis of physical abuse of adult. There is no documented basis for this diagnosis, and the factual sources leading to it are unknown. On March 23, 2007, the family advocacy officer boot-strapped the earlier information to the file and altered the V61.12 diagnosis to perpetrator of spouse abuse, without any explanation, and added an entirely new diagnosis of narcissistic personality disorder, claiming it meets criteria 1 (grandiose sense of self-importance), 2 (preoccupied with fantasies), 5 (sense of entitlement), 7 (lacks empathy), and 9 (shows arrogant, haughty behaviors or attitudes). The bases for those findings were not described, and they appear to be at odds with descriptions of Applicant by his superiors and coworkers – information that no healthcare provider or Command leadership ever sought to provide. Despite the comments made, Applicant was not deemed to be suicidal or homicidal, and the risk remained moderate. He was scheduled to return in two weeks for a risk assessment.

There is a Mental Health Record made by the licensed clinical psychologist that the record was being closed without Applicant again being seen. That record contains the following statement: “the impact of the treatment of military was administratively discharged from active duty service based on the results of the [Command Directed Evaluation] and diagnosis of personality disorder.” That characterization is patently false, and without any basis in fact, and the source of the comment is not known. Nevertheless, it was subsequently included in a subsequent DOD CAF-directed mental health evaluation over a decade later, as well as an allegation in the SOR.

As noted above, in 2017, at the direction of the DOD CAF, Applicant was evaluated by a licensed clinical psychologist. It is not known whether she used the DSM-IV-TR or the DSM-5 in making her evaluation. She determined that Applicant has a documented history of narcissistic personality disorder, but also shows some of the atypical thinking such as unusual beliefs, and paranoia, odd speech, and social skill deficits such as a lack of close friends, and social awkwardness commonly seen in an individual with schizotypal personality disorder. She failed to describe the basis for her conclusions of atypical thinking, unusual beliefs, paranoia, odd speech, social skills deficits, lack of close friends, and social awkwardness, especially in light of his many supporters and friends. In the absence of such information, her conclusions are considered baseless. Far more troubling is her reliance on the “historical” information – Applicant’s negative legal history, volatile mood and behaviors, and his history of interpersonal conflicts – furnished to her by the DOD CAF without further investigation.

Guideline G, Alcohol Consumption

The security concern relating to the guideline for Alcohol Consumption is set out in AG ¶ 21:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

The guideline notes a condition that could raise security concerns for Alcohol Consumption in AG ¶ 22:

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

Applicant acknowledged that from 2005 until mid-2016, she was arrested at least five times, as alleged in the SOR, and charged with a variety of alcohol-related violations, including DUI, DUAC, and open container, all of which resulted in convictions. AG ¶ 25(a) has been established.

The guideline also includes examples of conditions under AG ¶ 23 that could mitigate security concerns arising from Alcohol Consumption:

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

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

Neither of the mitigating conditions apply. Applicant has never acknowledged that she has consumed alcohol to excess; she has repeatedly denied being intoxicated or impaired in connection with any of her arrests and convictions; she never fully explained or acknowledged some of her alcohol-related arrests, claiming instead that she could not recall the incidents; and she contends, without testimonial or documentary support that she has been abstinent since the July 2016 arrest. She chose not to submit any information regarding her arrests, drinking habits, or claimed abstinence in response to the FORM, relying solely on the police records, court records, her SF 86 entries, and the notes from her OPM interview. She failed to address inconsistencies in the evidence, and failed to demonstrate a clear and established pattern of abstinence.

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 SEAD 4, App. A, ¶ 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 SEAD 4, App. A, ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. Moreover, I have evaluated the various aspects of this case in light of the totality of the record evidence and have not merely performed a piecemeal analysis. (See *U.S. v. Bottone*, 365 F.2d 389, 392 (2d Cir. 1966); See also ISCR Case No. 03-22861 at 2-3 (App. Bd. Jun. 2, 2006))

There is some evidence mitigating Applicant's conduct. Applicant is a 35-year-old prospective employee of a defense contractor. She has reported being an ADPE technician with her prospective employer since some time after July 2017. In her previous employment, she served as an MWR technician at a location in Afghanistan from November 2016 for about one year. She is a high school graduate with some college credits, but no degree.

The disqualifying evidence under the whole-person concept is simply more substantial. Applicant is not a reliable historian regarding her history of alcohol involvement because of her inconsistent statements in which she either denied, concealed, omitted, or could not recall significant portions of her alcohol consumption and personal conduct histories. According to Applicant, her alcohol consumption was not significant because she never drank to excess and limited her drinking to one or two alcohol drinks at dinner on an infrequent basis, during holidays, or on special occasions. The facts do not support her description of her alcohol use. Despite her arrests for such things as DUI; DUAC; driving without a license; use of another's/altered license; open container of beer or wine in a motor vehicle; driving under suspension; and driving on wrong side of road, she continued to minimize her alcohol use and argued that the DUIs and DUAC were the result of her repeated refusal to submit to breathalyzer tests. The various courts hearing the cases against her essentially found sufficient evidence to convict her of most of the charges, or reduced charges like reckless driving, and only acquitted her of one charge, driving on wrong side of road. In addition, Applicant did not offer any evidence to support her contention that she has abstained since mid-2016.

Overall, the evidence leaves me with substantial questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all of these reasons, I

conclude Applicant has failed to mitigate the security concerns arising from her alcohol consumption and personal conduct. See SEAD 4, App. A, ¶¶ 2(d)(1) through AG 2(d)(9).

Formal Findings

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

Paragraph 1, Guideline G:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.e.:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a. and 2.b.:	Against Applicant

Conclusion

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

ROBERT ROBINSON GALES
Administrative Judge