DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 21-02519
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Andrew H. Henderson, Esq., Department Counsel
For Applicant: Ryan C, Nerney, Esq.

02/09/2023

____

Decision

____

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the psychological conditions security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On December 8, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline I (psychological conditions). Applicant responded to the SOR on February 17, 2022, and requested a hearing before an administrative judge. The case was assigned to me on August 24, 2022.

The hearing was convened as scheduled on October 20, 2022. Government Exhibits (GE) 1 through 8 were admitted in evidence without objection. Applicant testified, called two witnesses, and submitted Applicant's Exhibits (AE) N and O, which were admitted without objection (AE A through M were attached to Applicant's response to the SOR). Without objection, I have taken administrative notice of certain provisions of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). I have not attached copies to the record as the source material is readily available.

Findings of Fact

Background

Applicant is a 37-year-old employee of a defense contractor. He has worked for his current employer since about August 2018. He worked for the same company from about July 2016 to March 2018, when he was laid off. He was unemployed for a few months before he was rehired. He served on active duty in the U.S. military from 2006 until he was honorably discharged in 2015. He has a bachelor's degree earned in 2018. He married in 2007 and divorced in January 2022. He has custody of his two children. (Transcript (Tr.) at 30-34, 55; GE 1, 2; AE B, D, E, M)

Applicant's Military Service

Applicant was the honor graduate of his boot camp. He was selected below the zone for promotion to E-4 in 2008. He deployed to Iraq in 2009 and was recognized with several medals and awards. He received nonjudicial punishment under Article 15 of the Uniform Code of Military Justice (UCMJ) in about March 2014. He stated that he shared test material for a promotion test with another servicemember. He was reduced to E-4. (Tr. at 32-34, 66-67; Applicant's response to SOR; GE 1, 2; AE E, H, M)

Applicant went through training to be a remotely piloted aircraft sensor operator in 2012, 2013, and early 2014, and he worked in that capacity in 2014 and 2015. He was involved in combat missions resulting in casualties. He completed 20 combat missions during a 45-day period in late 2014, and he had more than 1,000 flight hours total. He struggled with how the missions were affecting him. He noted a change in his personality, and he had headaches and anger issues. (Tr. at 37-38; GE 3; AE B, E, H, M)

Mental Health Treatment

Military Behavioral Health Center

Applicant sought treatment at the military behavioral health center in about October 2014. His medical records indicate that he felt targeted by his squadron since he received an Article 15. He was attempting to use a program that would allow him to transfer from active duty to the reserve. He appeared desperate to use any means to get off active duty. He reported that he often became so angry that he could feel his temperature rise. He was provided an anger management notebook and given homework. He did not complete the assigned homework. He did not appear for two appointments, and a termination note was completed in March 2015. (Tr. at 36-38, 68; GE 3; AE B, E, H, M)

Applicant returned to treatment at the military behavioral health center in June 2015. His parents were both diagnosed with cancer, and his mother has since passed away. His mother was visiting, and his family had an "intervention" with him and told him how different he had become. Applicant reported that he was having increased anxiety,

social withdrawal, increased depressed mood, hypersensitivity to surroundings, and severe nightmares with homicidal themes of killing his family members. He denied suicidal or homicidal ideation, plan, or intent. He noted that he "jokes" on occasion to his wife about shooting himself, and he placed a gun to his head at one point, but he denied that he had any active thoughts to end his life. His wife removed all weapons from the home. He thought that inpatient psychiatric treatment would be helpful to him. He was voluntarily admitted to a civilian inpatient psychiatric hospital the next day on June 10, 2015. (Tr. at 39-42, 68-70, 75, 77; Applicant's response to SOR; GE 1-3; AE B)

Inpatient Treatment

Applicant was an inpatient at a civilian psychiatric hospital from June 10, 2015, to June 22, 2015. His discharge diagnosis was major depressive disorder (MDD), single episode, moderate to severe, with mild psychotic symptoms; posttraumatic stress disorder (PTSD); generalized anxiety disorder (GAD); insomnia secondary to depression and anxiety; partner relational problems, moderate; and job-related problems. (Tr. at 41-42, 70; Applicant's response to SOR; GE 4, 5; AE B, K)

Applicant was prescribed medication at the hospital and for his aftercare. The hospital reported:

> In combination with individual, group, and milieu activities his mood and outlook significantly improved. He was very much engaged in treatment, and by discharge he was no longer having any further depressive, suicidal, or homicidal ideations. He was compliant with medications and had no side effects. His aftercare was coordinated with [military base} representatives. (GE 5)

Military Behavioral Health Center

Applicant received treatment at the military behavioral health center after his discharge from the civilian hospital. (Tr. at 43-44, 73) His medical records show the following clinical impression/summary:

> The patient voluntarily presented for medication management after recent hospitalization for depression, anxiety, and nightmares. He was diagnosed with MDD, GAD, and PTSD at the inpatient facility; however, the patient does not spontaneously offer sufficient symptoms to meet criteria for PTSD or GAD. Further, the depressive symptoms he reports appear to be directly tied to work-related stress, and the patient has previously divulged a belief that his symptoms would be entirely resolved if he were removed from the work environment. Psychological testing has demonstrated symptom exaggeration and/or feigning on tests (SIMS, MMPI [invalid due to over-endorsement], MCMI [valid but demonstrated over-endorsement]). Diagnostically, these results complicate the clinical picture and render it difficult to determine what, if anything, he endorses can or should be targeted by treatment. The patient continues to maintain that his report is

> an accurate portrayal of his symptoms. At this stage, it is my clinical opinion that the patient likely does experience some degree of psychological distress, but it appears that this distress is the result of poor coping and maladaptive personality features (affective instability, inappropriate and intense anger, recurrent suicidality). He was started on his current medication regimen while inpatient. We will continue these medications for now, as we continue to gather data and determine what symptoms are truly present and amenable to treatment. Regarding the personality features, it is likely that the use of quetiapine can target anxiety and sleep disturbance, and prazosin can decrease autonomic arousal. We will add a small daytime dose to see if this alleviates his endorsement of significant daytime hyperarousal. Other medication changes will be deferred until diagnostic clarity can be attained. He does not present with acute safety concerns and is appropriate for outpatient management. (GE 3)

The DSM-5 diagnoses were unspecified personality disorder, malingering, and rule out adjustment disorder with mixed anxiety and depressed mood. Under the risk assessment section, which primarily dealt with suicide and homicide, the medical record reported:

> Hospitalization **is not** deemed necessary at this time, as the patient **does not** present a clear or imminent danger to self or others. There is no current indication for pursuing a higher level of care. Outpatient management is currently most appropriate and least restrictive level of care. The patient is deemed to be a reliable reporter and is competent to make healthcare decisions. (emphasis in original) (GE 3)

The last prognosis in the medical records in evidence was provided on July 30, 2015, "Prognosis: Guarded, prognosis depends on diagnostic clarification and will be worsened by lack of candor." (GE 3)

Applicant went on terminal leave shortly after the last entry. He was honorably discharged as an E-4. The reason for the discharge was reduction in force because of his rank and time in service. He has a 100% disability rating from the Department of Veterans Affairs (VA). (Tr. at 34, 45, 67, 74-75, 81; GE 1, 2; AE B, F)

VA Treatment

Applicant worked in Afghanistan from about January 2016 to June 2016. He returned to Afghanistan in about July 2016. From 2016 to 2018, he worked in Afghanistan seven times. He has received counseling and treatment from the VA since 2016. Applicant stated that it is for PTSD, anxiety, and depression. He would see the therapist when he was in the United States. The VA reported that he was seen for a total of 32 visits from August 2018 to September 2019 for PTSD-related issues. His treatment at that facility concluded because he moved to another state. (Tr. at 47-51, 80; Applicant's response to SOR; GE 1, 2, 6; AE B, L)

Applicant has been treated at the VA at his current location since 2019. (Tr. at 52AE J, M, O) The VA psychiatrist reported:

> Again, he has shown consistency while dutifully fulfilling his obligations as a patient. This includes good attendance with scheduled appointments, being truthful and forthcoming when expressing his concerns, and cooperating and adhering to the agreed-upon treatment plan. Throughout this time, he has not demonstrated any disruptive behaviors to myself or clinic staff. [Applicant] has been a model patient in our clinic. (AE N)

Applicant stated that his mental health is stable. He sees the VA psychiatrist once a month. He takes his medication. He has coping mechanisms, such as going to the gym, listening to music and going to the dog park. He finds it helpful to talk with a friend who was also a sensor operator. The friend understands what they dealt with. He credibly stated that he will seek additional help if he needs it. (Tr. at 55, 58-63, 78-79, 82)

DOD CAF Psychological Evaluation - July 2021

The DOD CAF requested that Applicant undergo a psychological evaluation. The evaluation was conducted on July 16, 2021, by a licensed psychologist (hereinafter referred to as psychologist or DOD CAF psychologist) who was contracted from private practice by the DOD CAF. A report of the evaluation was prepared on July 26, 2021. (GE 7)

The psychologist utilized a clinical interview, self-report questionnaires, structured personality assessment (Minnesota Multiphasic Personality Inventory-2 Restructured Form-MMPI-2-RF), and medical records. The psychologist indicated that Applicant "exhibited a pattern of responding that raises questions regarding validity of the results," and that Applicant "produced a profile that shows evidence of inconsistent responding and over-reporting of symptoms throughout the protocol." (GE 7)

The psychologist found that based on Applicant's "presentation and recent history, his judgment and impulse control were good. But there is some evidence to suggest a history of difficulties with judgment and impulse control." The diagnostic impression was:

> Clinical interview, review of his medical records, and self-report questionnaires, indicate inconsistencies regarding the presence or absence of current psychiatric symptoms. Review of his completed MMPI-2-RF shows [Applicant] answered all questions on the assessment measure, but exhibited a pattern of responding that raises questions regarding validity of the results. [Applicant] produced a profile that shows evidence of inconsistent responding and over-reporting of symptoms throughout the protocol. While there are elevations on a number of clinical scales, including somatic/cognitive dysfunction, emotional dysfunction, thought dysfunction, interpersonal functioning scales and interest scales,

> there is sufficient evidence to suggest these results are invalid and not interpretable at this time. Of note, this pattern of inconsistent responding and over-reporting of symptoms is consistent throughout a number of records and may be reflective of a personality disorder or other chronic disorder; additional evaluation is recommended if [Applicant] would be interested in treatment to address these concerns.
>
> Regarding [Applicant's] self-report questionnaires, there is evidence to suggest the presence of psychiatric symptoms. However, based on the results of the validity scales of the MMPI-2-RF indicating inconsistent responding and over-reporting of symptoms, the accuracy of [Applicant's] self-report measures should be interpreted with caution. . . . Based on his MMPI-2-RF and self-report measures, [Applicant] does appear to be experiencing clinical distress, but due to questions regarding validity and inconsistency between the clinical interview and self-report measures, a specific diagnostic impression is not available at this time. (GE 7)
>
> In the summary and prognosis section, the psychologist wrote:
>
> As a result of the above assessment, it is the undersigned clinician's opinion that [Applicant's] judgment, reliability, and trustworthiness are not appropriately intact, as evidenced by inconsistencies in the clinical interview, self-report measures, patient history, and review of records. Based on a review of National Security Adjudicative Guidelines and DoD Personnel Security Policy, there is evidence to suggest [Applicant] displays a pattern of being unreliable with his behavior, which would impair his judgment, reliability, and ability to properly safeguard classified national security information. It is recommended [Applicant] engage in a thorough personality assessment to determine the presence or absence of characterological conditions and engage in evidence-based treatment to address his difficulties with self and others. (GE 7)

The psychologist then listed as the DSM-5 diagnosis, "Unspecified Personality Disorder." (GE 7)

Applicant's Psychological Evaluation - February 2022

Applicant sought his own evaluation from a licensed clinical psychologist (hereinafter psychologist or Applicant's psychologist) in February 2022. The diagnoses were posttraumatic stress disorder, chronic; generalized anxiety disorder; and dependent, compulsive, and avoidant personality traits. The psychologist provided the following diagnostic impressions:

> [Applicant] reports a history of multiple mood disorders, including depression, bipolar disorder (unknown type), anxiety, and PTSD. There is also a past diagnosis of unspecified personality disorder; however, the applicant feels this was a misdiagnosis and the problematic traits were

> actually symptoms of untreated bipolar disorder. He stated that he is now being treated effectively for bipolar disorder by a psychiatrist.
>
> Based on my clinical interview of the applicant, it is plausible that he suffers from manic depression; however, his insomnia may have also been due to other factors, including varied work shifts, nightmares, anxiety, and other symptoms of PTSD. During this examination, he did not describe any manic behaviors, other than insomnia. His psychological test results do not suggest bipolar disorder, but do indicate a moderate level of ongoing anxiety. Dependent, compulsive, and avoidant personality traits are also noted on the MCMI-IV, which may be the traits implied by other clinicians under the vague diagnosis of "unspecified personality disorder." Still, it should be noted that I have not reviewed those providers' records.
>
> Regardless of the exact diagnoses in this case, it is apparent that [Applicant's] symptoms are largely under control with his current medication regimen, even while working in the same field that led to his initial psychiatric treatment. He is aware of his chronic mental health issues, and acknowledges that he will require ongoing medicinal treatment. He indicated that is open to returning to therapy, if needed. He stated that he is asymptomatic at this time and has a good social support system. His home life is stable now that he is divorced and he has custody of his children. He maintained that he will remain compliant with any and all treatment modalities, as needed. He does not feel he needs counseling at this time.
>
> Empirical data suggest that individuals with chronic mood disorders and personality disorders should remain in care (therapy and/or pharmacotherapy) as long as symptomatic. If [Applicant] follows these guidelines, my clinical opinion in this case is that he would have a fair prognosis. (AE L)

Character Evidence

Applicant is active in his children's lives, and he volunteers in his community, including coaching youth sports. He called witnesses and submitted documents and letters attesting to his excellent work performance, strong moral character, and mental stability. He is praised for his trustworthiness, reliability, judgment, honesty, work ethic, professionalism, loyalty, adherence to security rules, and integrity. (Tr. at 10-27; AE B, C, G-I)

Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)

Major Depressive Disorder

The criterion symptoms for major depressive disorder must be present nearly every day to be considered present, with the exception of weight change and suicidal

ideation. Fatigue and sleep disturbance are present in a high proportion of cases; psychomotor disturbances are much less common but are indicative of greater overall severity, as is the presence of delusional or near-delusional guilt.

The essential feature of a major depressive episode is a period of at least two weeks during which there is either depressed mood or the loss of interest or pleasure in nearly all activities. Many individuals report or exhibit increased irritability (e.g., persistent anger, a tendency to respond to events with angry outbursts or blaming others, an exaggerated sense of frustration over minor events).

Posttraumatic Stress Disorder

The essential feature of PTSD is the development of characteristic symptoms following exposure to one or more traumatic events. Individuals with PTSD may be quick tempered and may even engage in aggressive verbal and/or physical behavior with little or no provocation. They may also engage in reckless or self-destructive behavior such as dangerous driving, excessive alcohol or drug use, or self injurious or suicidal behavior.

Generalized Anxiety Disorder

The key feature of generalized anxiety disorders is persistent and excessive anxiety and worry about various domains, including work and school performance, that the individual finds difficult to control.

Personality Disorder

The general definition of personality disorder that applies to each of the ten specific personality disorders is "an enduring pattern of inner experience and behavior that deviates markedly from the expectations of the individual's culture, is pervasive and inflexible, has an onset in adolescence or early adulthood, is stable over time, and leads to distress or impairment." Unspecified personality disorder is used when "symptoms characteristic of a personality disorder that cause clinically significant distress or impairment in social, occupational, or other important area of functioning predominate but do not meet the full criteria for any of the disorders in the personality disorders diagnostic class."

Policies

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

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief

introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

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

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

Analysis

Guideline I: Psychological Conditions

The security concern 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.

AG ¶ 28 provides conditions that could raise psychological conditions security concerns. The following are potentially applicable:

(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;

(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;

SOR ¶ 1.a

SOR ¶ 1.a alleges that Applicant received treatment in 2014 for anger issues, and that his "prognosis was fair with continued treatment compliance; however, [he] failed to fully participate in recommended anger management counseling and discontinued treatment in December 2014."

Even if everything stated above were true, there would be no applicable disqualifying conditions raised. Receiving mental health treatment does not raise a security concern. *See* AG ¶ 27(a): "No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling." I do not find that "anger issues" rises to the level of "behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness." (AG ¶ 28(a)) I also do not find that "concerns related to anger issues" qualifies as "an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness." (AG ¶ 28(b)) Finally, if there is no "psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness," there can be no failure to follow a prescribed treatment plan relating

that diagnosis. (AG ¶ 28(d)) There are no applicable disqualifying conditions, and SOR ¶ 1.a is concluded for Applicant.

SOR ¶ 1.b

SOR ¶ 1.b alleges that Applicant received inpatient treatment in 2015, where he was diagnosed with major depressive disorder; PTSD; generalized anxiety disorder; and insomnia secondary to depression and anxiety. AG ¶ 28(c) is established by the inpatient hospitalization.

AG ¶ 28(b) requires 1) an opinion by a duly qualified mental health professional that the individual has a condition; and 2) that the condition may impair judgment, stability, reliability, or trustworthiness. Some conditions, such as schizophrenia and delusional disorder (not present in this case), clearly impair judgment, stability, reliability, and trustworthiness, and can be accepted as such without further elaboration by the mental health professional. Other conditions may require elaboration by the mental health professional as to how the condition may impair the individual's judgment, stability, reliability, or trustworthiness.

Major depressive disorder and PTSD are conditions that may impair judgment, stability, reliability, or trustworthiness. AG ¶ 28(b) is established by those diagnoses. I do not find that generalized anxiety disorder and insomnia secondary to depression and anxiety are conditions that may impair judgment, stability, reliability, or trustworthiness. AG ¶ 28(b) is not established by those diagnoses.

SOR ¶ 1.c

SOR ¶ 1.c alleges that in 2015, Applicant was diagnosed with malingering and unspecified personality disorder; that his prognosis was guarded due to his history of noncompliance; and that he discontinued treatment in August 2015.

Malingering

Malingering is not defined as a disorder in the DSM-5. There was no other evidence presented that would establish it as a condition that may impair judgment, stability, reliability, or trustworthiness. AG ¶ 28(b) is not established by that diagnosis.

Unspecified Personality Disorder

Unspecified personality disorder is a condition that may impair judgment, stability, reliability, or trustworthiness. AG ¶ 28(b) is established by that diagnosis.

Guarded Prognosis Due to History of Noncompliance

A guarded prognosis may go to mitigation, but it does not raise any independent disqualifying conditions. There is nothing in the evidence to establish that Applicant's "history of noncompliance" in this allegation is different than the information alleged in

SOR ¶ 1.a. There are no applicable disqualifying conditions under the same rationale addressed in SOR ¶ 1.a.

Discontinued Treatment in August 2015

Applicant discontinued treatment at the military behavioral health center in August 2015 because he went on terminal leave prior to his discharge from the military. There are no disqualifying conditions related to that part of the allegation.

SOR ¶ 1.d

SOR ¶ 1.d alleges:

> From about August 2016 to about August 2019, you received treatment sporadically at the [VA Center] for concerns you described as Post-Traumatic Stress Disorder. You discontinued treatment in about September 2019 due to your relocation, but indicated you would resume services following your move.

Like SOR ¶ 1.a, even if true, this allegation does not raise any disqualifying conditions. As indicated above, receiving mental health treatment does not raise a security concern. The allegation does not allege "an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness." (AG ¶ 28(b)) Instead, it alleges that Applicant described the concerns as PTSD. It alleges that he "discontinued treatment in about September 2019 due to [his] relocation, but indicated [he] would resume services following [his] move." That does not constitute "failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness." SOR ¶ 1.d is concluded for Applicant.

SOR ¶ 1.e

SOR ¶ 1.e alleges the DOD CAF psychologist's diagnosis of unspecified personality disorder; the psychologist's opinion that Applicant's "judgment, reliability, and trustworthiness are not appropriately intact, as evidenced by inconsistencies in the clinical interview, self-report measures, patient history, and review of records"; and that Applicant "display[ed] a pattern of unreliable behavior, which would impair [his] judgment, reliability, and ability to properly safeguard classified national security information."

Unspecified Personality Disorder

Unspecified personality disorder is a condition that may impair judgment, stability, reliability, or trustworthiness. AG ¶ 28(b) is established by that diagnosis.

Judgment, Reliability, and Trustworthiness

Judgment, reliability, and trustworthiness are not "conditions" within the meaning of AG ¶ 28(b).

Inconsistencies in the Clinical Interview

"[I]nconsistencies in the clinical interview, self-report measures" apparently refers to Applicant being untruthful to the various doctors. However, in order for AG ¶ 28(a) to be applicable it must be "behavior . . . ***not covered under any other guideline***." (emphasis added) That behavior could have been alleged under Guideline E (personal conduct). Therefore, it therefore cannot be used to establish AG ¶ 28(a).

Pattern of Unreliable Behavior

A "pattern of unreliable behavior" under certain circumstances could be sufficient to establish AG ¶ 28(a). The only problematic behavior I can identify as not covered under another guideline is when Applicant placed a gun to his head, although that could also arguably be covered as personal conduct under Guideline E.

The question then becomes was the behavior alleged. E3.1.3 of the Directive requires that the SOR "be as detailed and comprehensive as the national security permits." If SOR ¶ 1.e attempted to allege behavior under AG ¶ 28(a), I do not know what specific behavior was alleged, and it is doubtful that Applicant knows. I am nonetheless treating it as though the SOR alleged that Applicant placed a gun to his head. That behavior is sufficient to raise AG ¶ 28(a) as a disqualifying condition.

AG ¶ 29 provides conditions that could mitigate psychological conditions security concerns. The following are potentially applicable:

> (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.

Applicant's military career is not perfect. He left with the same rank he achieved in 2008 when he was promoted below the zone. There were also highs. He was the honor graduate of his boot camp. He was selected for promotion to E-4 in 2008 below the zone. He did what was asked of him. He deployed to Iraq in 2009 and was recognized with several medals and awards. Much of his mental health issues and disciplinary problems coincided with his training and work as a remotely piloted aircraft sensor operator. His service resulted in PTSD and a 100% disability rating from the VA. His service-connected PTSD is alleged as part of the basis for the denial of his security clearance.

There are several diagnoses in the record. I am satisfied that Applicant has suffered from some form of mental health condition. The one I am most certain of is PTSD, which was never diagnosed by the DOD CAF psychologist, but was diagnosed by the doctors who treated him as an inpatient and for years in the VA. The DOD CAF psychologist diagnosed Applicant with unspecified personality disorder. Personality disorders run the spectrum from the relatively benign (e.g., obsessive-compulsive personality disorder, avoidant personality disorder) to significant (e.g., paranoid personality disorder, antisocial personality disorder). It is unclear where Applicant falls in that spectrum.

I have no reason to disregard the DOD CAF psychologist's opinion, but I also give weight to other doctor's opinions and the lay evidence of how Applicant is currently doing. He is highly regarded at work and in his community. He has custody of his two children. Applicant's psychologist's conclusion makes the most sense to me:

> Regardless of the exact diagnoses in this case, it is apparent that [Applicant's] symptoms are largely under control with his current medication regimen, even while working in the same field that led to his initial psychiatric treatment. He is aware of his chronic mental health issues, and acknowledges that he will require ongoing medicinal treatment. He indicated that he is open to returning to therapy, if needed. He stated that he is asymptomatic at this time and has a good social support system. His home life is stable now that he is divorced and he has custody of his children. He maintained that he will remain compliant with any and all treatment modalities, as needed. He does not feel he needs counseling at this time.

I find that the identified conditions are readily controllable with treatment, and Applicant has demonstrated ongoing and consistent compliance with his treatment plan. AG ¶ 29(a) is applicable. Psychological conditions security concerns are mitigated.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

> (1) The nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline I in my whole-person analysis. I also considered Applicant's military service and his favorable character evidence.

Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the psychological conditions security concerns.

Formal Findings

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

Paragraph 1, Guideline I:	For Applicant
Subparagraphs 1.a-1.e:	For Applicant

Conclusion

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Edward W. Loughran
Administrative Judge