



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



In the matter of:)	
)	
-----)	ISCR Case No. 22-00182
)	
Applicant for Security Clearance)	

Appearances

For Government: William H. Miller, Esq. Department Counsel
For Applicant: *Pro se*

03/27/2023

Decision

WESLEY, ROGER C. Administrative Judge

Based upon a review of the case file, pleadings, exhibits, and testimony, Applicant mitigated criminal and personal conduct concerns, but did not mitigate financial consideration concerns. Eligibility for access to classified information or to hold a sensitive position is denied.

Statement of the Case

On May 4, 2022, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Central Adjudications Facility (CAF) issued a statement of reasons (SOR) to Applicant detailing reasons why under the financial considerations guideline the DoD could not make the preliminary affirmative determination of eligibility for granting a security clearance, and recommended referral to an administrative judge to determine whether a security clearance should be granted, continued, denied, or revoked. The action was taken under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960); DoD Directive 5220.6 *Defense Industrial Personnel Security Clearance Review Program*, (January 2, 1992) (Directive); and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

Applicant responded to the SOR on May 31, 2022, and requested a hearing. This case was assigned to me on December 22, 2022. A hearing was scheduled for ¶February 13, 2023, via Teams Teleconference Services, and was heard on the scheduled date. At the hearing, the Government's case consisted of seven exhibits. (GEs 1-7) Applicant relied on one witness (himself) and no exhibits. The transcript (Tr.) was received on February 24, 2023.

Procedural Issues

Prior to the case assignment to myself, the Government amended the SOR to add criminal conduct allegations under Guideline J covering an arrest and charge of Applicant in February 2022 with Assault Class-C Family Violence and Interference with Public Duties. The Government cross-alleged these allegations under Guideline E.

Before the close of the hearing, Applicant requested the record be kept open to permit him the opportunity to supplement the record with documentation of his child support payments (SOR ¶ 1.a) and an updated credit report. (Tr. 100-101) For good cause shown, Applicant was granted seven days to supplement the record. The Government was afforded two days to respond. Within the time permitted, Applicant supplemented the record with: documented payments of his owed child support payments (SOR ¶ 1.p); a payoff of one of his credit card debts (SOR ¶ 1.j); payments made on two finance debts (SOR ¶¶ 1.a and 1.f); a payoff of an SOR utility debt (SOR ¶ 1.m); a debt negotiation agreement covering three of the listed SOR creditors (SOR ¶¶ 1.a, 1.f, and 1.i); and an updated credit report.

Applicant's post-hearing submissions were admitted without objection as AEs A A-J. These post-hearing submissions will be considered along with Applicant's admitted hearing exhibits.

Summary of Pleadings

Under Guideline F of the SOR, Applicant allegedly accumulated 15 delinquent consumer debts exceeding \$48,000, in addition to back child support exceeding \$2,955. Allegedly, these debts have not been resolved.

Under Guideline J, Applicant allegedly was arrested in February 2022 and charged with Assault Class C-Family Violence and Interference with Public duties. These Guideline J allegations were cross-alleged under Guideline E.

In his response to the SOR, Applicant admitted most of the alleged SOR debts with explanations. He claimed he has since taken care of his back child support obligations and addressed his debts owed to other creditors listed in the SOR. And, he claimed to be making "better strides in taking care of my finances." (Response) Applicant denied the allegations covered by SOR ¶¶ 1.c and 1.n, claiming he previously paid off these debts.

Addressing the allegations averred in the amended SOR, Applicant admitted the allegations covered by SOR ¶¶ 2.a and 3.a .He added no claims or explanations.

Findings of Fact

Applicant is a 45-year-old civilian of a defense contractor who seeks a security clearance. Admitted facts are adopted and incorporated by reference. Additional findings of fact follow.

Background

Applicant married in April 2012 and divorced in December 2015. (GE 1; Tr.36) He has two children from this marriage. (GE 1; Tr. 30) He remarried in February 2020 and has a four-year-old daughter and stepson (age 11) from his first marriage. (GE 1; Tr. 37-38; 40-41) Applicant earned a bachelor's degree in October 2020. (GE 1)

Applicant enlisted in the Marine Corps in September 1995 and served four years of active duty before receiving an honorable discharge in September 1999. (GE 1) In October 1999, he enlisted in the Army and served 15 years of active duty. (GE 1) His service included multiple deployments to war zones. (Tr. 33) Applicant received an honorable discharge in September 2015. (GE 1)

Since November 2019, Applicant has been employed by a local school district as a Reserve Officers Training Corps (ROTC) instructor. (GEs 1-2 and AE A; Tr. 44-45) Between September 2015 and October 2029 (save for two months of reported unemployment between January 2019 and March 2019), he worked for other non-defense employers in various jobs. (GE 1) He has held a security clearance since June 2014. (GE 1)

Applicant's finances

Following his Army discharge in 2015, Applicant encountered financial difficulties. (GEs 1-5; Tr. 49) Problems that weakened his finances included his recurrent difficulties in finding work in the months following his Army discharge. With increased family burdens, very limited resources, and a strained marriage that ultimately ended in divorce, he was able to afford only basic necessities (like his mortgage, food, and utilities. etc.). (Applicant's response; Tr. 32)

Between 2015 and 2021, Applicant accumulated 15 delinquent consumer debts exceeding \$48,000. (GEs 1-5) During this five-year period, he also accrued back child support obligations to his first wife in the amount of \$2,955. (GE 2 and Applicant's response) While he has since addressed some of the listed SOR debt delinquencies (six in all to date, inclusive of his back child support obligations), for the most part he has not paid or resolved the bulk of the covered SOR debts.

Debts Applicant has addressed to date are comprised of the following: SOR ¶¶ 1.a (a \$10,459 finance debt through a payment agreement in which Applicant has made three payments of \$342 a month in compliance with the agreement's terms); 1.b (through a settlement agreement with the creditor that calls for monthly payments of \$293, beginning in February 2023); 1.f (payoff of settled \$993 credit card account); 1.j (payoff of \$993 debt for reduced \$600 amount) (AE F; Tr. 51-55); 1.m (payment in full of a \$214 utility debt); and 1.n (payment in full of a \$156 finance debt). (AE I) Applicant is also credited with paying off his \$2,955 back child support debt and bringing his child support obligations to his first wife into a current status. (AE H)

In hopes of resolving his delinquent accounts with SOR creditors 1.i, Applicant retained a debt negotiating firm in February 2023 to help him resolve his delinquent balance with the creditors 1.a, 1.f, and 1.k. (AE G) While settlement results have been positive in resolving his SOR 1.a and 1.f debts, his settlement efforts have not been fruitful to date for resolving his SOR 1.k debt and the other still outstanding delinquent accounts listed in the SOR..

Still, Applicant's payment efforts remain a work in progress, despite his apparent financial ability to make more inroads into resolving his remaining delinquent accounts. He reported current net monthly income of \$7,332. (AEs A-B; Tr. 39) With his wife's reported net monthly income of \$4,000, he reported a combined net monthly income of \$11,332. (AE B) His reported individual monthly expenses of \$3,636, and his combined monthly family expenses are \$5,795. (AE B)

Based on these furnished figures, Applicant retains an individual monthly remainder in excess of \$3,650 and a combined monthly family remainder in excess of \$5,500. (AE B) For additional resources should he need them in addressing his delinquent accounts, he can always access his listed family available savings of \$17,000 and 403(b) savings of \$3,500. (AE B) Why he has not been able to make more progress in paying and resolving his delinquent accounts with the monetary resources available to him is neither clear nor reconcilable with his claims of limited resources to address his debts.

Applicant's domestic violence incident

In February 2022, Applicant was arrested and charged with Assault Class C-Family Violence and Interference with Public Duties. (GEs 6-7) The police report covering the underlying incident includes a police narrative of an officer responding to a complaint from a friend at a local bar who claimed Applicant assaulted his wife in a bar and had her in a headlock. (GE 7)

Disputing the police narrative of Applicant's having his wife in a headlock during a heated argument inside the bar, Applicant insisted the police narrative represented a misunderstanding of what was actually taking place between Applicant and his wife on the night of the incident. (Applicant's response; Tr. 92-93) Disputing the claims of the

witness at the scene and the police narrative, Applicant characterized his argument in the bar as a discussion with his wife and nothing more. (Tr. 92) He assured that it was never his intention to instigate any disturbance in the facility or cause any harm to his wife. (Tr. 92-93) Missing from Applicant's account of the reported incident is why he found it necessary to place his wife in a headlock. Was it something in their discussion that Applicant found to be provocative or threatening from his wife that prompted him to respond defensively to her? Or did he simply overreact to something his wife said or did that provoked him? No clear answers are available without more clarifying information from Applicant and his spouse.

Because the limited police narrative of the friend's testimony, their own struggle with Applicant to separate him from the bar staff's holds on him, and the absence of any probative accounts from Applicant's wife, clarifying explanations of all of the circumstances surrounding the cited friend's observations of Applicant's imposing physical restraints on his wife cannot be reliably assessed. All the responding police have in their report is the friend's reported observations of Applicant's having his wife in a headlock and the bar staff's attempts to remove Applicant from the premises while police were still in the bar investigating the incident. Attempts by responding police to make contact with Applicant's wife on multiple occasions to take photographs of her and elicit more details from her about the bar incident were unsuccessful. (GE 7)

Without photographs and statements of Applicant's wife, or a court hearing or other public forum to sort out and validate the accounts of the respective parties to the 2022 bar incident, reliable factual assessments cannot be made of the observed restraints Applicant placed on his wife. In Applicant's favor, he has no prior arrest record to compare and evaluate any dispositions for violence on his part. But without any photographs or personal accounts of the incident from his wife to weigh in juxtaposition to the witness statements in the police report, reliable interpretations of what fully transpired between Applicant and his wife cannot be made.

Further police attempts to elicit photographs and details of the 2022 bar incident from Applicant's wife were unsuccessful. And, ultimately, the case was dismissed summarily by a state court hearing the matter without any assigned reasons for dismissing the pending charges against Applicant.

Endorsements

Applicant is well regarded by a senior ROTC instructor who worked with Applicant over the course of the previous five years and found him to be honorable and trustworthy. (Tr. 26-27) Aware of the reported circumstances associated with the incident that resulted in Applicant's arrest and charges, he considered any charged conduct against Applicant "to be "out of his character" and a source of surprise. (Tr. 26-27) Expounding on his assessments of Applicant's character, his district supervisor. (himself a retired Army sergeant with over 22 years of military service) considered Applicant to be a great mentor "for the kids and the program." (Tr. 26)

Others who know and have worked with Applicant credit him with exemplifying the highest levels of trust and reliability. (AE J) The senior Army Instructor (a retired Army LTC) and Applicant's direct supervisor at the high school where Applicant works credited Applicant with being "the epitome of a JROTC instructor." (AE J) He stressed the high respect and trust that Applicant has earned from the school's staff and administration, and most of all from the students who he mentors. (AE J) Applicant is equally well regarded by community leaders who have worked closely with Applicant in a community project that raises money to meet the housing needs of military veterans. (AE J) While the project founder who works with Applicant expressed profound respect for his commitment to the project's goals and his role as an ROTC instructor, he made it very clear that he did not condone Applicant's actions in the noted bar incident.

Joining others in assessing Applicant's good character was Applicant's wife. Without mentioning the bar incident, she extolled his virtues as a devoted husband, father, and "person of the highest moral and ethical standards . . . ," who consistently leads by example. (AE J) She went on to credit Applicant with being an excellent mentor and role model for his students, who regularly "demonstrates strong ethical and moral values and leads by example." (AE J) His wife closed with her description of Applicant as "a great and positive influential human being." (AE J)

Policies

By virtue of the jurisprudential principles recognized by the U.S. Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988), "no one has a 'right' to a security clearance." As Commander in Chief, "the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. Eligibility for access to classified information may only be granted "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.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The AGs list guidelines to be considered by judges in the decision-making process covering DOHA cases. These guidelines take into account factors that could create a potential conflict of interest for the individual applicant, as well as considerations that could affect the individual's reliability, trustworthiness, and ability to protect classified information. These guidelines include conditions that could raise a security concern and may be disqualifying (disqualifying conditions), if any, and all of the conditions that could mitigate security concerns, if any.

These guidelines must be considered before deciding whether or not a security clearance should be granted, continued, or denied. Although, the guidelines do not require judges to place exclusive reliance on the enumerated disqualifying and mitigating conditions in the guidelines in arriving at a decision.

In addition to the relevant AGs, judges must take into account the pertinent considerations for assessing extenuation and mitigation set forth in ¶ 2(a) of the AGs, which are intended to assist the judges in reaching a fair and impartial, commonsense decision based on a careful consideration of the pertinent guidelines within the context of the whole person. The adjudicative process is designed to examine a sufficient period of an applicant's life to enable predictive judgments to be made about whether the applicant is an acceptable security risk.

When evaluating an applicant's conduct, the relevant guidelines are to be considered together with the following ¶ 2(d) factors: (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 of the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Viewing the issues raised and evidence as a whole, the following individual guidelines are pertinent herein:

Financial Considerations

The Concern: Failure or inability to live within one's means, satisfy debts and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules or regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greaterrisk of having to engage in illegal acts or otherwise questionable acts to generate funds. . . . AG ¶ 18.

Criminal Conduct

The Concern: Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a

person's ability or willingness to comply with laws, rules, and regulations. AG ¶ 18.

Personal Conduct

The Concern: Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulation can raise questions about an individual's reliability, and trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes . . . AG ¶ 15.

Burdens of Proof

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours.

Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "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. See also Exec. Or. 12968 (Aug. 2, 1995), § 3.1.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). 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). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Security concerns are raised over Applicant's reported accumulation of 15 delinquent consumer accounts and back child support owed his first wife. These debt delinquencies warrant the application of two of the disqualifying conditions (DC) of the financial consideration guidelines: DC ¶¶ 19(a), "inability to satisfy debts"; and 19(c), "a history of not meeting financial obligations." Each of these DCs apply to Applicant's situation.

Applicant's 16 admitted debts with explanations and clarifications require no independent proof to substantiate them. See Directive 5220.6 at E3.1.1.14; *McCormick on Evidence* § 262 (6th ed. 2006). His admitted debts are fully documented and create judgment issues as well over the management of his finances. See ISCR Case No. 03-01059 (App. Bd. Sept. 24, 2004). Although he qualified his admissions with explanations, his admissions can be weighed along with other evidence developed during the hearing.

Financial stability in a person cleared to protect classified information is required precisely to inspire trust and confidence in the holder of a security clearance that entitles the person to access classified information. While the principal concern of a security clearance holder's demonstrated difficulties is vulnerability to coercion and influence, judgment and trust concerns are implicit in cases involving delinquent debts.

Historically, the timing of addressing and resolving debt delinquencies are critical to an assessment of an applicant's trustworthiness, reliability, and good judgment in following rules and guidelines necessary for those seeking access to classified information or to holding a sensitive position. See ISCR Case No. 14-06808 at 3 (App. Bd. Nov. 23, 2016); ISCR Case No. 14-01894 at 5 (App. Bd. Aug. 18, 2015).

Applicant's cited financial difficulties following his military discharge in 2015 (inclusive his problems in finding work, his increased family burdens, and his strained marriage that ultimately ended in divorce), clearly his accrual of so many delinquent debts over the past six years can be attributed to extenuating circumstances. Recognizing these added financial burdens on his keeping up with his debts, mitigating condition MC ¶ 20(b), "the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances," partially applies to applicant's situation.

By failing, however, to make more concerted efforts to address his debt delinquencies over the past five years with the assortment of monetary resources available to him precludes him at this time from availing himself of the mitigating benefits of the second prong ("acting responsibly") of MC ¶ 20(b). With ample resources at his disposal to pay off the smaller debts and negotiate settlement arrangements with the larger accounts, he has simply not been active enough about

working with his creditor with his creditors holding either charged off or delinquent balances to satisfy the mitigation requirements of MC ¶ 20(b).

In addressing his remaining debt delinquencies, Applicant has produced mixed results to date. Afforded hearing and post-hearing opportunities to address his unresolved accounts, he has been only partially successful. His five settled accounts with SOR creditors 1.a (\$10,459); 1.f (\$1,768); 1.j (\$993), 1.m (\$214), 1.n (\$156), and 1.p (back child support payments totaling \$2,995) are encouraging but only account for less than \$17,000 of the overall accumulation of debts covered by the SOR. At this time, he has not made enough progress in addressing his delinquent debts to enable him to avail himself of the mitigating benefits of MC ¶ 20(d), “the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.” Lacking financial counseling, MC ¶ 20(c), “the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control,” is not applicable either to Applicant’s situation.

With ample resources at his disposal to make more significant inroads into resolving his debt delinquencies, he has failed to take advantage of the opportunities available to him. Without more payment documentation efforts on Applicant’s part, he cannot at this time be fully credited with resolving his debt delinquencies and regaining control of his finances. While his efforts in addressing some of his debts are promising, they are enough to facilitate safe predictions about his ability to gain control and stabilize his finances. More time and effort are needed in addressing his finances before he can be fully credited with restoring his finances to stable levels.

In evaluating Guideline F cases, the Appeal Board has stressed the importance of a “meaningful track record” that includes evidence of actual debt reduction through the voluntary payment of accrued debts. See ISCR Case No. 19-02593 at 4-5 (App. Bd. Oct. 18, 2021); ISCR Case No. 19-01599 at 3 (App. Bd. Jan. 20, 2020). Based on the evidence presented, Applicant is not able to demonstrate a sufficient tangible track record of actual debt reduction to satisfy Appeal Board guidance.

Criminal and personal conduct concerns

Additional security concerns are raised over Applicant’s 2022 domestic violence arrest and charges. Based on the police narratives covering Applicant’s reported 2022 domestic assault incident (inclusive of the statement of the friend at the identified bar who reportedly observed Applicant’s physical restraints on his wife) there is enough evidence available to warrant the application of one disqualifying condition (DC) of Guideline J: DC ¶, 31(b), “evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.” With the domestic assault incident cross-alleged under Guideline E, general concerns raised under Guideline E are also applicable.

Subsequently, the charges covering Applicant's reported 2022 criminal assault on his wife were dismissed by the court who convened the initial hearing on the charges. And, because the dismissal was not accompanied by reasons for the dismissal, a full evidentiary finding of the actions Applicant was charged with cannot be reliably made. MC ¶ 32(c), "no reliable evidence to support that the individual committed the offense" is partially applicable to the facts of Applicant's case. Why MC ¶ 32(c) is not fully applicable to the facts and circumstances pertaining to Applicant's case is the presence of reasonable doubt as to whether Applicant's actions were misinterpreted or the result of an unobserved provocation from his wife.

To be sure, it is possible that the convening court dismissed the charges for lack of a complaining and cooperating spouse to corroborate the charge against Applicant. But even this possibility cannot be verified from the record evidence. Suffice to say, without more evidence to evaluate the domestic charges against Applicant, both inferences and conclusions are warranted that the charges cannot be fully validated independent of a court dismissal. However, these charges do appear to be isolated and out of character for an applicant with no reported prior arrest history. Based on this assessment of Applicant's background, the incident in issue is an isolated one and is unlikely to recur. Partially available to Applicant is MC ¶ 32(a), "so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment." None of the mitigating conditions covered by Guideline E have specific application to the facts of Applicant's case.

Whole-person assessment

Whole-person assessment of Applicant's clearance eligibility requires consideration of whether his finances are fully compatible with minimum standards for holding a clearance. Taking into account Applicant's credited defense contributions and his explanations of the debts attributed to him in the SOR, insufficient evidence has been presented to enable him to maintain sufficient control of his finances to meet minimum standards for holding a security clearance.

Assigning considerable weight to Applicant's many years of military service and the strong endorsements he received from his supervising ROTC chief, senior ROTC colleague, community project founder, and his wife, all of whom credited Applicant with valued service, trust, and building valued mentoring relationships, the 2022 domestic violent incident charged to Applicant is considered to be an isolated incident in an otherwise honored and respected military and post-military career. Considering all of the circumstances, recurrence risks are low.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude financial considerations security concerns are not mitigated. Security concerns raised over the assault charges

covered by Guidelines J and E are mitigated. Eligibility for access to classified information is denied.

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:

Guideline F (FINANCIAL CONSIDERATIONS): AGAINST APPLICANT

Subparagraphs 1.b-1.e, 1.g-1.i, .k-1.l, 1.o: Against Applicant
Subparagraphs 1.a, 1.f, 1.j, 1.m-1.n, 1.p: For Applicant

Guideline J (CRIMINAL CONDUCT): FOR APPLICANT

Subparagraph 2.a: For Applicant

Guideline E (PERSONAL CONDUCT): FOR APPLICANT

Subparagraph 3.a: For 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.

Roger C. Wesley
Administrative Judge