



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00227
	)	
Applicant for Security Clearance	)	

**Appearances**

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

06/26/2023

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**Decision**

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COACHER, Robert E., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline I, psychological conditions, Guideline J, criminal conduct, Guideline H, drug involvement and substance misuse, and Guideline E, personal conduct. Applicant’s eligibility for a security clearance is denied.

**Statement of the Case**

On April 13, 2022, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines I, J, H, and E. The DOD acted 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) implemented by the DOD on June 8, 2017.

Applicant answered the SOR on April 16, 2022. He requested a hearing. The case was assigned to me on January 25, 2023. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on February 6, 2023, and the hearing was held as scheduled on March 1, 2023. The Government offered exhibits (GE) 1 through 10, which were admitted into evidence without objection. The Government's pre-hearing discovery and exhibit list were marked as hearing exhibits (HE) I and II. At the Government's request and without objection, I took administrative notice of certain excerpts of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), as set forth in HE III. Applicant testified and offered exhibits (AE) A-E, which were admitted without objection. Applicant's transmittal email was marked as HE IV. DOHA received the hearing transcript (Tr.) on March 9, 2023.

### **Findings of Fact**

Applicant admitted some of the SOR allegations, with explanations, and denied other allegations. His admissions are adopted as findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following additional findings of fact.

Applicant is 31 years old. He is currently unemployed, but he is being sponsored for a security clearance by a federal contractor. He served in the U.S. Air Force from 2013 to 2019, when he was discharged with a general discharge, under honorable conditions. He holds an associate degree and is taking additional courses. He is divorced and has no children. He held a clearance while in the Air Force until it was suspended in December 2018. (Tr. 6, 37-38; GE 1, 6)

Under Guideline I, the SOR alleged: (1) Applicant received psychiatric treatment for depression and anxiety in November 2018. He expressed suicidal ideations while hospitalized; (2) Applicant received treatment at a military medical clinic from December 7, 2018, to about April 22, 2019, after expressing suicidal ideations. He was diagnosed with conditions identified as adjustment disorder with mixed anxiety and depressed mood and an unspecified personality disorder. He was given a poor prognosis. He was evaluated by a licensed psychologist in December 2021, who affirmed the earlier diagnoses of mood disorder and adjustment disorder, and also characterized his prognosis as poor. (SOR ¶¶ 1.a-1.c)

Under Guideline J, the SOR alleged: (1) Applicant received nonjudicial punishment under the Uniform Code of Military Justice (UCMJ), Article 15, in February 2019 for wrongful use of testosterone; (2) Applicant received nonjudicial punishment under the UCMJ, Article 15, in April 2019 for wrongful use of letrozole; (3) Applicant was charged with engaging in abusive sexual contact under UCMJ Article 120; and (4) Applicant received a general discharge from the Air Force in May 2019. (SOR ¶¶ 2.a-2.d)

Under Guideline H, the SOR cross-alleged the two drug abuse allegations in SOR ¶¶ 2.a-2.b.

Under Guideline E, the SOR cross-alleged the allegations in SOR ¶¶ 2.a-2.d. The SOR also alleged that Applicant deliberately gave false information on his August 2019 security clearance application (SCA) when he failed to disclose: (1) his hospitalization in November 2018; (2) his illegal drug use in SOR ¶¶ 2.a-2.b above; (3) his illegal drug use, while possessing a security clearance; and (4) that he had his security clearance suspended in December 2018. (SOR ¶¶ 4.a-4.e)

### **Psychological Conditions (Guideline I).**

Applicant was interviewed by a background investigator in August 2019. During that interview, he admitted that he sought treatment for anxiety and depression and was hospitalized at a military facility in November 2018. He sought this treatment after he had moved out from living with his girlfriend in October 2018. He remained hospitalized for approximately 36 hours. Applicant admitted this hospitalization during his hearing testimony. There are no medical records that document this hospitalization. There is also no evidence supporting Applicant's suicidal ideations at this point in time. (Tr. 54-56 ; GE 2 (p. 6), GE 4 (no reference to November 2018 hospitalization))

Applicant voluntarily sought outpatient counseling at an Air Force mental health clinic from approximately December 2018 to May 2019. The treatment stopped when he was discharged from the Air Force in May 2019. His medical care during this time is documented by the 120 pages of records contained in GE 4. Applicant's primary mental health provider during his sessions was Dr. C, a licensed clinical psychologist. Applicant had one session with Dr. K, a psychiatrist. (GE 4 (pp. 14, 45-50, 112))

Dr. C's initial diagnoses for Applicant in December 2018 were: (1) adjustment disorder with mixed anxiety and depressed mood (DSM-5 F43.23), and (2) unspecified disorder of adult personality and behavior (DSM-5 F69). During the course of the next several months, Dr. C continued to see Applicant in the clinical setting and documented the following observations:

Applicant's first session on December 7, 2018: He was hostile and uncooperative with treatment. He made little eye contact, which challenges his credibility. A personality disorder is suspect of interfering with his accessibility to treatment. He is scheduled for psychological testing.

Applicant's session on December 14, 2018: He was uncooperative with treatment and would rather talk about himself, he related he felt victimized by a woman who raised a sexual assault allegation against him (see below under criminal conduct discussion). He seems unwilling to engage in any authentic therapeutic interventions;

Applicant's session on December 17, 2018: He may be opening up but it is hard for him to let go of blaming his girlfriend;

Applicant's session on December 27, 2018: He is forming tenuous therapeutic alliance after each session after he initially enters with a hostile, irritable attitude. Once he opens up he impresses as more credible and empathy for him comes easier. He is beginning to talk more authentically about his conflicts and feelings of aloneness. He has not had suicidal ideations for at least a month.

Applicant's session on January 4, 2019: He did not enter session with hostility. He talked a lot about himself. He opened up about growing up with guns and they are a part of his culture. He expressed that no one ever being there for him and this statement might offer an opening into his personal life.

Applicant's session on January 11, 2019: He presents for the supportive aspects of treatment and tends to become argumentative when he is challenged. He seems to be disinterested in real change that can come from psychotherapy. However, his symptoms have reduced dramatically since he has presented himself as a victim regarding the sexual contact allegations. He is unauthentic and he is not aware that he is presenting that way;

Applicant's session on January 14, 2019: He wants to come off his medications because he feels he is underweight. He is more focused on his appearance than on his current emotions. He is opening up to some degree in therapy and is gaining some minimal insight into how his own behavior has affected his current situation. He is very focused on the women who have wronged him. He wishes to continue treatment, despite his resistance to it;

Applicant's session on February 22, 2019: He panicked over his sexual assault charges, so his reading of one [Dr. C's] notes in which he was deemed not credible has weighted meaning at this time. He stated that if he lost his sexual assault case he would kill himself. He also called his mother and told her the same thing. He is contradictory in his reports of confirming at the same time denying his suicidality. (Note, on this same day, Dr. C was informed by Applicant's First Sergeant that Applicant had a plan to kill himself with a gun if he was not discharged from the Air Force in 15 days. Applicant had written a suicide note.);

Applicant's session on March 15, 2019: He is completely disengaged from treatment, is argumentative, and cannot be pleased.

Applicant's session on April 22, 2019: He attended therapy today despite his complaint that his treatment is lacking. He seemed lost and spoke as if treatment was his last resort. He presented well-groomed and confident as usual but he seems confounded about why he is alone and what needs to

be done to remedy his feelings of loneliness. He is distressed about leaving the Air Force which is indicative of considerable ambivalence on his part as he also complains about the Air Force bitterly. He has been off his medications for two months. This was the last session Applicant attended before his discharge from the Air Force. (GE 4 (pp. 33-37))

Dr. C's final diagnosis was that Applicant presented with adjustment disorder with depressed mood and anxiety. She summarized his overall progress during his sessions as follows: "Patient did not improve in treatment and was only checking in because he refused treatment but he was on the HIL (high interest list) and was required to check in." He did not have suicidal ideations at the beginning or the end of his sessions. She also stated his prognosis is poor and that Applicant was unreliable and dishonest during the course of treatment. (GE 4 (pp. 12-14))

In Applicant's SOR answer, he denied that he expressed any suicidal ideations while treated at the Air Force mental health clinic between December 2018 and April 2019. He also explained that he believed the prescription medication he was taking was causing "negative feedback." In his hearing testimony, Applicant admitted he had a difficult relationship with Dr. C. He believes she took things out of context. He also disagreed with the medications she prescribed for him. He denied telling Dr. C that he would kill himself if he lost his sexual assault case. He denied telling Dr. C that he called his mother and told her the same thing. He denied writing a suicide note that his First Sergeant disclosed. I do not find Applicant's denials credible when viewed against the conflicting record evidence. (Tr. 77-78, 89-91; SOR answer)

In December 2021, Applicant consented to a psychological evaluation arranged by the DOD. Dr. M, a board certified, licensed clinical psychologist, approved by the DOD, was retained to conduct the evaluation on December 4 and December 21, 2021. Dr. M conducted clinical interviews of Applicant, reviewed the medical records contained in GE 4, reviewed Applicant's Department of Veterans Affairs (VA) medical records, and conducted psychological testing, including The Million Clinical Multi-axial Inventory 4th edition (MCMI-IV) and the Minnesota Multiphasic Personality Inventory 3rd edition (MMPI-3). (GE 3)

Applicant's MCMI-IV test produced a profile of a response style in need of social approval with a tendency to present himself in a favorable light. The testing results showed significant elevations on scales related to histrionic, turbulent, and narcissistic personality patterns. The test showed that he also expressed general anxiety. The test indicated evidence of a moderate degree of emotional lability in his personality, and although he is typically able to function adequately, periods of marked emotional, cognitive, and behavior dysfunction are likely. (GE 3)

Applicant's MMPI-3 test showed that the test's validity scale raised concerns about possible underreporting by him. However, the test was deemed valid. He presented as well-adjusted, despite evidence to the contrary. The test revealed he likely engages in compulsive behavior and displays a rigid, perfectionistic demeanor. The test showed no

evidence of disordered thinking or maladaptive behavior, but because of the possibility of his underreporting, such behavior could not be ruled out. (GE 3)

Based upon her overall evaluation, Dr. M concluded, “[Applicant] has a consistent history of Mood Disorder and Adjustment Disorder, and although he does not currently endorse any mental health symptoms, it is likely that he is minimizing due to the nature of this evaluation.” Dr. M gave the following prognosis: “[Applicant’s] prognosis is poor. He lacks insight into his mental health condition, and he is unable to admit even minor flaws.” Additionally, she stated that the inconsistencies between Applicant’s self-report of his mental health history and his current condition contrasted to the documented treatment history call into question his judgment, reliability, stability, and trustworthiness. (GE 3)

In his SOR answer, Applicant indicated that at the time of Dr. M’s evaluation he had been off his anti-depressant medications for about six months. Without stating it directly, he implied that this had some impact on him at the time of the evaluation. He denied suffering from bi-polar mood disorder, however, Dr. M did not specifically diagnose him with that disorder. She stated that without further testing (a neuropsychological evaluation), the diagnostic picture was complicated. He has seen a therapist through the VA two times in the past year. He provided some medical records from the VA, but none contained any diagnoses or prognosis. He does not have any future sessions scheduled. (Tr. 115-116; GE 3; AE D; SOR answer)

### **Criminal Conduct (Guideline J) and Drug Involvement and Substance Abuse (Guideline H)**

In October 2018, while Applicant was in the Air Force, he tested positive for testosterone, a schedule III controlled substance, during a urinalysis test. Further investigation by the Air Force Office of Special Investigation (AFOSI) discovered three witnesses who either saw Applicant inject himself with testosterone or other steroids, or to whom Applicant admitted that he used such substances. A residential search revealed that Applicant possessed a box of unused 31-gauge syringes and a vial of bacteriostatic water. Based upon the foregoing, in January 2019, Applicant was administered Article 15 UCMJ proceedings by his commander for a violation of UCMJ Article 112a, wrongful use of a controlled substance. After consulting with a lawyer, Applicant accepted the Article 15 proceedings, rather than requesting trial by court-martial. After making a written presentation to his commander, his commander found him guilty of the offense and issued punishment of a one grade reduction-in-rank and a reprimand. (GE 2, 7-8)

In January 2019, Applicant tested positive during another urinalysis for letrozole, another controlled substance. Applicant was again offered Article 15 punishment, which he accepted. His commander found him guilty of the offense and issued punishment of a one grade reduction-in-rank and a reprimand. (GE 2, 7, 9)

In explaining these two drug incidents, Applicant claimed he took over-the-counter boosters and was unaware that they may have contained prohibited substances. He also

claimed that he never received the actual urinalysis test results, so he was unsure how the substances could have been in his body. In his hearing testimony, he denied knowingly using illegal steroids and injecting himself with any type of steroid. He admitted testing positive on the two urinalyses. I did not find Applicant's testimony credible given the corroboration evidence for the positive tests results (three witnesses and the search results). (Tr. 69-70, 72; GE 2; SOR answer)

In February 2019, Applicant's former girlfriend reported to the AFOSI that when she and Applicant were living together in October 2018, he touched her in a sexual manner on three occasions. She claimed she told him to stop on each occasion. Applicant was later questioned by the AFOSI and he denied any nonconsensual touching. The investigation was forwarded to Applicant's command for potential criminal action. The command decided that there was insufficient evidence to act upon. During his hearing testimony, he denied this allegation. Additionally, he claimed he was a victim of sexual assault by his former girlfriend. (Tr. 45-48; GE 10)

Applicant was discharged from the Air Force in May 2019, at the end of his enlistment. His discharge was characterized as a general discharge, under honorable conditions. (GE 1-2)

### **Personal Conduct (Guideline E)**

Applicant filled out an SCA in August 2019. In Section 21 of the SCA, he was asked if he had ever been hospitalized for a mental health condition. He answered "no." Applicant admitted he was voluntarily hospitalized in November 2018, for a 36-hour period in a behavioral health facility. He claimed in his SOR answer that it was not related to mental health issues. Earlier during his background investigation, he admitted the treatment was for anxiety and depression issues. He told the investigator he was not sure he should list it. (Tr. 55-56, GE 1-2; SOR answer)

In Section 23 of the SCA, Applicant was asked if, within the last seven years, he had used any illegal drugs or controlled substances. He was also asked if, within the same time period, he used illegal drugs or controlled substances while possessing a security clearance. He answered "no" to both questions. That answer was false because Applicant was used illegal steroids between July and October 2018 and December 2018 and January 2019. He held a security clearance at the time of these uses. In Section 15 of the SCA, Applicant listed information about his military history. In the subsection inquiring about discipline, Applicant disclosed his discipline under Article 15 for positive drug tests. This is similar information that should have been disclosed in Section 23, as described above. (GE1)

In Section 25 of the SCA, Applicant was asked if he ever had a security clearance eligibility/access authorization denied, suspended, or revoked? He answered "no." This answer was false because on December 3, 2018, his military commander issued a letter suspending Applicant's access to classified information. Applicant acknowledged receipt of this letter and signed for it on December 4, 2018. In his SOR response, Applicant

admitted improperly answering this question. He did not provide a reason why he answered improperly. (GE 1; SOR answer)

Applicant provided a letter of support from his current girlfriend. She stated that when they started dating in May 2020, he disclosed a mood disorder to her resulting from the death of his fiancée in January 2020. He was taking medication at that time. After about a year, he decided to come off his medications. After doing his own research, he stopped taking the prescribed medications. She further stated that since coming off the medications, he is a new man. She feels coming off his medication was the best choice for him. (AE A-B)

## **Policies**

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 used in evaluating an applicant's eligibility for access to classified information.

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

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

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

Section 7 of EO 10865 provides that 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 seeking mental health counseling.

The guideline notes several conditions that could raise security concerns under AG ¶ 28. Three are potentially applicable in this case:

- (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; and
- (c) voluntary or involuntary inpatient hospitalization.

Applicant was voluntarily hospitalized in approximately November 2018 for a 36-hour period. In December 2018 he began regular sessions with a qualified mental health professional (Dr. C) at a military mental health clinic. During these sessions, Applicant spoke of committing suicide on more than one occasion. There is no evidence that he had any suicidal ideations while hospitalized in November 2018. He was diagnosed by Dr. C with adjustment disorder with mixed anxiety and depressed mood. She gave him a poor prognosis and opined that he was unreliable and dishonest during his treatment

sessions. In December 2021, a second qualified mental health professional diagnosed Applicant with mood and adjustment disorders, gave him a poor prognosis, and indicated his treatment history called into question his judgment, reliability, stability, and trustworthiness. All three disqualifying conditions apply here.

The adjudicative guidelines also include examples of conditions that could mitigate security concerns, as set forth in AG ¶ 29:

(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;

(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 testified that he has had two therapy or counseling sessions in the past year through the VA. The VA records do not contest the earlier diagnoses of Dr. C and Dr. M. Applicant is no longer taking medication. Based upon the totality of the record evidence, none of the mitigating conditions fully apply.

### **Guideline J, Criminal Conduct**

The security concern relating to the guideline for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying in this case. The following are potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted; and

(e) discharge or dismissal from the Armed Forces for reasons less than "Honorable."

The record evidence supports the allegations describing Applicant's acceptance of Article 15 punishment from his commander for two separate violations of using illegal

drugs. The alleged victim of Applicant's sexual assault provided evidence supporting that allegation. SOR ¶¶ 2.a-2.c are established under AG ¶ 31(b). Since Applicant's discharge from the military was characterized as general, under honorable circumstances, I find that SOR ¶ 2.d was not established under AG ¶ 31(e)

I have also considered all of the mitigating conditions for criminal conduct under AG ¶ 32 and considered the following relevant:

(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;

(c) no reliable evidence to support that the individual committed the offense; and

(d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

None of the mitigating conditions apply to SOR ¶¶ 2.a-2.b because his illegal steroid abuse was recent and he continues to deny that he knowingly used the illegal substances, thereby limiting any rehabilitation effort. He failed to present credible evidence indicating he would not use these substances in the future. Given that Applicant's commander evaluated the evidence concerning the alleged sexual assault and recommended no criminal proceedings, I conclude that AG ¶ 32(c) applies to SOR ¶ 2.c.

#### **Guideline H, Drug Involvement and Substance Abuse**

AG ¶ 24 expresses the security concern pertaining to drug involvement:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. Controlled substance means any "controlled substance" as defined in 21 U.S.C. 802. Substance misuse is the generic term adopted in this guideline to describe any of the behaviors listed above.

AG ¶ 25 describes conditions that could raise a security concern and may be disqualifying. The potentially applicable condition in this case is:

(a) any substance misuse.

Applicant's use of illegal controlled substances is supported by two positive urinalysis tests, witness testimony, and the seizure of syringes. AG ¶ 25(a) is established.

AG ¶ 26 provides conditions that could mitigate security concerns. Two potentially apply in this case:

(a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used;  
and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant's denial that he wrongfully used steroids, given the evidence supporting his knowing uses, and his use while holding a security clearance, cast doubt upon his current reliability, trustworthiness, and good judgment. Neither AG ¶¶ 26(a) or 26(b) apply.

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the personal conduct security concern:

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

16. Conditions that could raise a security concern and may be disqualifying include:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national; and

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

The record evidence is sufficient for an adverse determination under the criminal conduct and drug involvement and substance misuse guidelines. Nevertheless, as a whole, Applicant's actions put into issue his judgment, trustworthiness and overall personal conduct, as expressed in the general security concern in AG ¶ 15 and the specific concern expressed in AG ¶ 16(c). Applicant's use of illegal steroids while holding a security clearance raises questions about his reliability, trustworthiness, and judgment. AG ¶ 15 and AG ¶ 16(c) apply to SOR ¶ 4.a (related to 2.a-2.b).

Applicant was aware that he was hospitalized for mental health reasons in November 2018. I do not find credible his assertion that he was not sure if he needed to list that information on his 2019 SCA. AG ¶ 16(a) applies to SOR ¶ 4.b. I conclude that although Applicant failed to list his steroid use under Section 23, he did provide essentially the same information about that activity in Section 15 of the SCA. AG ¶ 16(a) does not apply to SOR ¶¶ 4.c-4.d. Applicant admitted providing erroneous information about never having his clearance suspended. In December 2018, he signed for a copy of the letter suspending his clearance and therefore had actual notice of something significant that occurred less than one year before he completed his August 2019 SCA. I conclude his omissions were deliberate. AG ¶ 16(a) applies to SOR ¶ 4.e.

I have also considered all of the mitigating conditions for personal conduct under AG ¶ 17 and considered the following relevant:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

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

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

Applicant's use of illegal steroids after he was granted a security clearance causes significant concerns. He was well aware of his responsibilities to disclose his hospitalization and his clearance suspension in 2019 when he completed his SCA, but he failed to do so. He did not make a prompt, good-faith effort to correct his previous falsifications. Deliberately providing false information on an SCA is not a minor offense. It strikes at the heart of the security clearance investigation process. These actions raise questions about Applicant's reliability, trustworthiness, and judgment. AG ¶¶ 17(a), 17(c), and 17(d) do not apply.

### **Whole-Person Concept**

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

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

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered Applicant's mental health issues, his military service, and his letter of support. However, I also considered Applicant's diagnoses and prognosis concerning his mental health issues, his history of steroid abuse, and his use after obtaining a security clearance. He also deliberately falsified his 2019 SCA. He failed to provide sufficient evidence to mitigate the security concerns.

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

conclude Applicant failed to mitigate the security concerns under Guidelines I, J, H and E.

### **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:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant (except the language, "You expressed suicidal ideations while hospitalized," which I find in favor of Applicant)
Subparagraphs 1.b-1.c:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant
Subparagraphs 2.c-2.d:	For Applicant
Paragraph 3, Guideline H:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
Paragraph 4, Guideline E:	AGAINST APPLICANT
Subparagraphs 4.a-4.b, 4.e:	Against Applicant
Subparagraphs 4.c-4.d:	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.

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Robert E. Coacher  
Administrative Judge