



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00849
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Dan O’Reilly, Esq., Department Counsel  
For Applicant: Christopher Snowden, Esq.

10/24/2023

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**Decision**  
\_\_\_\_\_

LOUGHRAN, Edward W., Administrative Judge:

Applicant mitigated the security concerns under Guidelines A (allegiance to the United States), E (personal conduct), and M (use of information technology). Eligibility for access to classified information is granted.

**Statement of the Case**

On February 22, 2023, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines A, E, and M. Applicant responded to the SOR on March 22, 2023, and requested a hearing before an administrative judge. The case was assigned to me on August 24, 2023. The hearing convened as scheduled on September 6, 2023.

**Evidence**

Government Exhibits (GE) 1 through 9 were admitted in evidence without objection. Hearing Exhibits (HE) I and II were offered by the Government as demonstrative evidence, and they were accepted as such without objection. Applicant testified, called a witness, and submitted Applicant Exhibits (AE) A through L (AE A

through G were attached to the SOR), which were admitted without objection. The record was held open for the Government to submit additional documentary evidence.

Department Counsel requested that I take administrative notice of facts regarding the “Domestic Violent Extremist Threat, the Three Percenters, and QAnon.” (HE IV) The 15 supporting documents are identified as Items I through XV, which is how I will address them. The email from Department Counsel forwarding HE IV is marked HE V. Applicant’s email response is marked HE VI.

HE IV includes reports and bulletins from the FBI, U.S. Department of Homeland Security (DHS), Office of the Director of National Intelligence, and the DoD. (Items I-VI, XIII-XV) Applicant objected to the reports that post-date Applicant’s conduct. That objection is overruled, and I will take administrative notice of the reports and bulletins. (Items I-VI, XIII-XV) HE IV also includes a criminal complaint, supporting affidavits, U.S. Department of Justice (DOJ) press releases, and an indictment. (Items VII-XII) Applicant objected to those documents. The objection to administrative notice of the criminal complaint, supporting affidavits, DOJ press releases, and indictment (Items VII-XII) is sustained, and I will not take administrative notice of those documents. I am admitting those documents as Government exhibits over Applicant’s objection. They will keep the same marking for clarification purposes.

While I did not accept all the documents for administrative notice, I accept and adopt the facts contained in those documents. The following is based on the Government’s exhibits and administrative notice documents. It documents what is currently known by the U.S. Government about Domestic Violent Extremists (DVEs), QAnon, and Three Percenters, identified in this decision also by the terms III%ers, 3%ers, and Threepers. The following does not necessarily reflect what Applicant knew about them when he took the actions alleged in the SOR.

## **Domestic Violent Extremists**

One of the most significant terrorism threats to the United States we face today is posed by lone actors and small groups of individuals who commit acts of violence motivated by a range of ideological beliefs and/or personal grievances. Of these actors, DVEs represent one of the most persistent threats to the United States today. These individuals are often radicalized online and look to conduct attacks with easily accessible weapons. Many of these violent extremists are motivated and inspired by a mix of ideological, socio-political, and personal grievances against their targets.

A DVE is defined as an individual based and operating primarily within the United States or its territories without direction or inspiration from a foreign terrorist group or other foreign power who seeks to further political or social goals, wholly or in part, through unlawful acts of force or violence dangerous to human life.

DHS assesses that racially or ethnically motivated violent extremists (RMVEs) and militia violent extremists (MVEs) present the greatest DVE threats, with RMVEs being the most persistent and lethal threats to conduct mass-casualty attacks against

civilians, and MVEs typically targeting law enforcement and government personnel and facilities. There have also been examples of both RMVEs and MVEs targeting critical infrastructure, including against the electric sector, among others.

RMVEs and MVEs are the primary DVE concern, given the lethality of the threat and incident data. While specific motives vary, many attackers share common behavioral characteristics and often connect with a grievance to justify their use of violence.

RMVEs and anti-authority/anti-government violent extremists are inspired by various violent extremist ideologies or perceived personal grievances, often cultivated through the consumption of online content or motivated by conspiracy theories. This results in many DVEs with hybrid ideological beliefs that do not fit into traditional categories.

Some DVEs view the January 6th event as a success. Conspiracy theories, such as QAnon, likely will also inspire some DVEs and others to engage in more sporadic, lone actor or small cell violence against common DVE targets, including racial, ethnic, or religious minorities and institutions, law enforcement, and government officials and buildings.

Ideologies driven by such DVEs often are reinforced by a variety of online content, including conspiracy theories and political commentary they view as controversial. Current events that DVEs perceive as infringing on their worldviews often contribute to periods of increased ideologically motivated violence, including recently during the COVID-19 pandemic and nationwide lawful protests.

The Intelligence Community assesses that DVEs exploit a variety of popular social media platforms, smaller websites with targeted audiences, and encrypted chat applications to recruit new adherents, plan and rally support for in-person actions, and disseminate materials that contribute to radicalization and mobilization to violence.

The FBI warned that the mere advocacy of political or social positions, political activism, use of strong rhetoric, or generalized philosophical embrace of violent tactics may not constitute extremism and may be constitutionally protected. (GE 4 at 137; Item III)

### **Three Percenters (III%ers, 3%ers, or Threepers)**

The definition of Three Percenter has evolved over the last three-plus years. In June 2020, the FBI Joint Intelligence Bulletin reported:

Militia extremists sometimes call themselves three percenters (III%ers) based on the myth that only three percent of American colonists took up arms against the British during the Revolutionary War. Some III%ers regard the present-day US Government as analogous to British authorities during the Revolution in terms of infringements on civil liberties. While

many independent or multi-state militia groups incorporate III% in their unit names, the term is less indicative of membership in a single overarching group than it is representative in a common belief in the notion that a small force with a just cause can overturn a tyrannical government if armed and prepared. ***Self-identification as a III%er or use of III% symbols should not independently be considered evidence of militia affiliation or illegal activity.*** (Emphasis added) (GE 4 at 138)

In December 2020, the FBI Domestic Terrorism Reference Guide reported that some militia MVEs call themselves III%ers, and added that III%ers:

Refers to a militia-movement based on the myth that only three percent of Americans fought against the British during the American Revolutionary War. Adherents use the myth to pledge or justify their willingness to use force to resist restrictions on firearms or civil liberties against the present-day US Government and other government entities, which are viewed as akin to the British during the Revolution. ***Self-identification as a III%er or use of III% symbols should not independently be considered evidence of militia affiliation or illegal activity.*** (Emphasis added) (Item VI)

Several militia-style organizations incorporated have Three Percenters and Patriots into their names or logos, including the Michigan United Patriots Three Percent, the California Patriots, and the Texas Three Percenters. The Guardians of Freedom have “III” in their logo. A number of individuals who identified as members of Three Percenter militias were arrested and convicted for crimes related to the breach of the U.S. Capitol on January 6, 2021.

## **QAnon**

In United States v. Perna, an FBI Special Agent presented the FBI assessment of QAnon:

QAnon is a sprawling, discredited, anti-establishment conspiracy theory that originated from postings on online message boards by an anonymous individual known as “Q.” Q claims to be a high-level government official with a Q clearance and access to classified information. Central to the QAnon conspiracy theory is the false belief that the world is run by a cabal of Satan-worshipping pedophiles and child-traffickers (allegedly largely comprised of prominent Democratic politicians, so-called “Deep State” government employees, journalists, and Hollywood elite) and that President Trump is secretly working with Q and others to take down the cabal. Many QAnon adherents (known as “Anons”) refer to themselves as “digital soldiers” and believe they are engaged in an epic battle between good and evil and darkness and light. Following the November 3, 2020 election, many QAnon adherents began pushing false and discredited theories of massive voter fraud and that the 2020 election had been

“stolen” from President Trump. Other prominent QAnon adherents exhorted the “Anons” to “trust the plan,” believing that President-Elect Biden’s victory is illusory and part of a convoluted plan by Q and others to reveal the crimes of the cabal to the world, resulting in President Trump securing a second term. QAnon believers are waiting for two major events, which they refer to as the “the Storm” and the “Great Awakening.” The “Storm” refers to a day of violence which will result in mass arrests, military trials, and executions of the members of the cabal. According to QAnon lore, “the Storm” will be followed by the “Great Awakening,” which generally refers to the belief that the truth of the central tenets of QAnon will be revealed to the world.

In May 2019, the FBI assessed that anti-government, identity based, and fringe political conspiracy theories, such as QAnon, very likely motivate some domestic extremists, wholly or in part, to commit criminal and sometimes violent activity. The FBI further assesses in some cases these conspiracy theories very likely encourage the targeting of specific people, places, and organizations, thereby increasing the likelihood of violence against these targets.

One key assumption driving these assessments is that certain conspiracy theory narratives tacitly support or legitimize violent action. The FBI also assumes that some, but not all, individuals or domestic extremists who hold such beliefs will act on them.

In June 2022, a joint special analysis assessed that adherence to elements of the continuously evolving QAnon conspiracy theory—some of which are bolstered by the resonance of election fraud narratives—will contribute to the radicalization and mobilization to violence of a small number of DVEs, posing a threat to individuals and institutions that supporters of the conspiracy theory have prominently denounced. Some self-identifying QAnon adherents participated in the breach of the U.S. Capitol on January 6, 2021.

### **Findings of Fact**

Applicant is a 54-year-old employee of a defense contractor. He has worked for his current employer since August 2021. He served on active duty in the U.S. military from 1993 until he was honorably discharged in 1996. He then served in the military reserve until 2001. He attended college for a period without earning a degree, and he has technical certifications. He married in 1997 and divorced in 2008. He married his current wife in 2011. He has an adult child from his first marriage and a minor child from his second marriage. (Transcript (Tr.) at 61-65; Applicant’s response to SOR; GE 1-3; AE B, C, H, I)

Applicant’s first and second wives were both born in the foreign country (Country A) where Applicant served when he was in the U.S. military. He lived and worked in that country from 1999 to 2021. He worked for defense contractors from 2008 until he lost his job in 2021 as a consequence of the actions described below. (Tr. at 61-65; Applicant’s response to SOR; GE 1, 3; AE I)

On January 13, 2021, a U.S. servicemember reported that a vehicle on the military installation was “displaying Three Percenter and QAnon stickers on its back window. Both of these organizations/beliefs have been linked to racially motivated violent extremism and anti-government actions.” He reported that he first noticed the “III” sticker on July 31, 2020, and the QAnon sticker on January 12, 2021. He stated that he became aware of the III symbol because it was reported that an NFL player had the symbol as a tattoo.<sup>1</sup> (GE 3, 4 at 38-39)

The military criminal investigation division did a criminal and insider-threat analysis and determined that Applicant was not suspected of committing a criminal offense or being an insider threat. The military criminal investigation division did not open an investigation, with the following rationale in an email dated January 15, 2021:

1. Social media was identified with no derogatory information noted.
2. The FBI has not designated the 3%ers or QAnon as a terrorist organization. Neither of them are organized groups.
3. The 3%er sticker alone is not an indicator of militia affiliation (see attached [FBI Joint Information Bulletin identified in above Evidence section] and below for more details.
4. While an internet search for three percenters (III%) and QAnon will yield several sites declaring them anti-government, militia linked, or conspiracy theorists; as with any group there are those who take matters to the extreme and those who are more conservative in their voice. Displaying a sticker in support of either group does not make an individual a threat.
5. At this time, [Applicant] is not suspected of committing a criminal offense or insider threat. (GE 4 at 133)

An administrative investigation was ordered and completed by a U.S. military field grade officer. The investigation disclosed that the vehicle belonged to Applicant. The Three Percenter sticker has III inside a circle of stars. The QAnon sticker is a stylized Q with a skull inside. Applicant bought the III sticker on eBay for \$20 and placed it on his vehicle in about June 2020. He bought the QAnon sticker on eBay for \$10 and placed it on his vehicle in about January 2021. He also bought a rubber bracelet with a red Q. (Tr. at 66, 94-102, 110-111; Applicant’s response to SOR; GE 3, 4)

During the investigation, Applicant stated that he placed the III sticker on his vehicle because he liked the design and to “tell that I defend the Constitution. That I am a patriot. I want to show loyalty as a patriotic American.” He stated that his understanding of the Three Percenters was that “[i]t’s like Paul Revere, protecting the

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<sup>1</sup> The NFL player stated, “I got that tattoo when I was a teenager and I have a lot of family in the military. I thought it stood for a military-support symbol at the time.” See <https://www.military.com/off-duty/2020/04/29/nfl-draftee-claims-he-thought-three-percenter-tattoo-was-military-support-symbol>.

second amendment and the Constitution. Nothing to do with supremacy or extremism.” (GE 3, 4)

Applicant stated that he placed the QAnon sticker on his vehicle “to raise awareness. Spawn curious[ity] and let people research for themselves.” He stated that his understanding of QAnon was that it “is a group that conducts independent research. It’s not an ideology nor does it promote violence or any type of derogatory actions. [T]here is no ill har[m] at all. It is suspected of being very close to [the] Trump administration.” (GE 3, 4 at 68-71)

The investigator interviewed a number of Applicant’s work colleagues. He was described as “glad to be at work”; “low-key, calm, friendly, easy going guy”; “respectful and competent in his duties”; “very quiet, tends to keep things to himself”; and an “introvert.” Most of his colleagues stated that they had not seen Applicant display images of either QAnon or Three Percenters, but most of his colleagues were unfamiliar with QAnon or Three Percenters before the investigation. (GE 3, 4)

Applicant’s supervisor at the time, a retired lieutenant colonel, provided a statement for the investigation. He had never heard Applicant discuss Three Percenters or QAnon, and he never heard Applicant advocate any activities designed to overthrow the U.S. Government by force. He stated that “[e]verybody in the office discussed the riots on Jan. 6. We were all horrified by the incident and everyone in the office disagreed with what occurred, including [Applicant].” The supervisor was unfamiliar with Three Percenters before Applicant’s stickers became an issue. He then looked them up online. What he found indicated that the Three Percenters supported the Constitution by non-violent means. He also looked up QAnon, and he felt it was developed as a joke, and that “[w]ho else would come up with a story line that the world is controlled by a small cabal of children eating cannibals? A good video game story, but, laughable. I don’t think anyone takes it seriously, but they enjoy following the antics of the few idiots who do.” (GE 4 at 44)

One employee reported to the investigator that he and Applicant were traveling by car on a work trip when he noticed Applicant wearing a rubber bracelet with a red letter Q. The employee asked him about the bracelet. Applicant stated it was an online social media group that he followed. The employee reported that Applicant “described Q as what [he] would consider conspiracy theories about shadow government and pedophiles.” (Tr. at 77-79, 109; GE 4 at 91; AE L)

The investigator reported that there was no indication that Applicant had ever specifically advocated activities designed to overthrow the U.S. Government by force, and that there was no indication that he supported the January 6, 2021 insurrection at the Capitol. (GE 3, 4)

On numerous occasions, Applicant accessed QAnon-affiliated websites and social media using his government computer system. On June 29, 2020, and June 30, 2020, using his government email account, he sent emails through his government computer system to three other federal employees. Attached to the emails were

documents that contained QAnon-associated rhetoric. With slight variations, the two attached documents had the same message. The two-page message is a rambling diatribe that appears to be mainly against the mainstream media with open-ended questions. This was during the COVID-19 pandemic and around the time of the lockdown. One of the recipients of the email stated that he was not alarmed by the message and thought the message may have referred to the media's coverage of elections and the lockdown. Another recipient remembered receiving the email, but not the contents. (Tr. at 74-75, 84-85, 106-108; Applicant's response to SOR; GE 3, 4 at 100-119)

I did not understand much of the QAnon message (possibly because it is written in a way to be intentionally obtuse), but I did not see anything calling for violence. One section stated, "They want you divided" by religion, race, sex, political affiliation, and class, and that "When you are divided, and angry, and controlled, you target those 'different' from you, not those responsible [**controllers**]." (Emphasis in original) The message closed with:

"Free thought" is a philosophical viewpoint which holds that positions regarding truth should be formed on the basis of logic, reason, and empiricism, rather than authority, tradition, revelation, or dogma.  
THIS REPRESENTS A CLEAR AND PRESENT DANGER TO THE  
CONSTITUTIONAL REPUBLIC OF THE UNITED STATES OF AMERICA.  
(GE 4 at 113-119)

Applicant followed on his government computer system numerous QAnon conspiracy theories and messages posted on Facebook. A post from May 7, 2020, addressed a media conspiracy directed at the 2020 Presidential election, and included: "When do you expend ammunition? For What Purpose? . . . You have more power and influence than you realize. Welcome to the Revolution. Q" (Emphasis in original) Another post on October 31, 2020, stated, "Are you ready to finish what we started? 'Nothing can stop what is coming' is not just a catch-phrase. Q" A third post, apparently from November 2020, was a political comic referencing election fraud. (GE 3, 4)

Applicant removed the bumper stickers in January 2020, after emails about extremist iconography were circulated through the command. (Tr. at 69-70, 102-106; Applicant's response to SOR; GE 3, 4)

Applicant's access to classified information was suspended in March 2021. (GE 8, 9) In April 2021, the commander of the U.S. forces in Country A barred Applicant from entering any U.S. military installation in the country for ten years, with the following rationale:

You have been found to have displayed iconography associated with extremist ideologies on your personally owned vehicle and in the workplace. Additionally, you distributed material associated with extremist ideologies. Your actions are incompatible with the interests of national security, reflect negatively on the image of the U.S. overseas, and



adversely affect the safety and morale of personnel on [U.S. facilities in Country A]. (GE 6)

When Applicant was barred from the military installations, he also lost his job, and he had to relocate back to the United States. He could not afford to move much of his household goods, and he gave most things away. He estimated that he lost about \$100,000 through the process. (Tr. at 65, 88-82; GE 1, 2, 8)

Applicant adamantly denied that he is a Three Percenter, that he has ever been a member of a militia or any similar group, or that he supports or is sympathetic to any group that “advocates resistance to certain U.S. federal government policies.” He was horrified by the events at the Capitol on January 6, 2021. He testified that he did not understand the full meaning of the III sticker, and that he came across it on eBay. He liked the design, and he thought it symbolized patriotism, support for the Second Amendment, and the national dialogue. He did not realize it was associated with extremist groups. He added that he “thought they were Constitution defenders, kind of like Paul Revere, people that stand up when there is like, the Government is not doing exactly as the Constitution states.” (Tr. at 66-68, 82-83, 94-97, 113-122; Applicant’s response to SOR; GE 2; AE A)

Applicant testified that he thought “QAnon is basically an online repository of information. There’s no ideology. A person can go in and access it and do their own research on it.” He stated that it is “kind of like a big puzzle,” and “kind of like the Da Vinci Code.” He did not agree with everything on QAnon. He stated that he sent the emails “to spawn curiosity, just to give them an alternate view over what mainstream media was saying on the TV in our office.” He stated that he thought the QAnon website he visited would have been blocked if it was a problem, and he was never notified by any IT personnel that it was a problem before the investigation. He felt the QAnon message he sent was anti-racist, and promoted unification, not division. He now feels that he was misinformed about QAnon. He does not intend to have any further connection to QAnon. (Tr. at 71-77, 84-87, 97-102, 110-117, 122-132; Applicant’s response to SOR)

Applicant submitted letters and documents attesting to his outstanding job performance and strong moral character. He is praised for his patriotism, efficiency, competence, dedication, work ethic, compassion, leadership, positive attitude, honesty, trustworthiness, and loyalty to the United States. They recommend him for a security clearance. (AE D, J)

The colleagues and supervisor at his former job, which include several retired U.S. military officers, feel that Applicant was unfairly treated because they never saw any indication that he was sympathetic to any militia or extremist group. They confirm that he was appalled by the events of January 6, 2021, and he condemned the insurrection. They believe that the politically charged atmosphere following January 6, 2021, contributed to the command’s decisions. A security officer at the command expressed the same view. One co-worker wrote in his statement for the investigation, “[Applicant] has never represented himself as anything other than being patriotic. I think

he got himself caught up in something he didn't know what he was getting into." (Tr. at 17-42; GE 4 at 43-65, 76-88, 95-97; AE D, J)

## **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 A, Allegiance to the United States**

The security concern for allegiance to the United States is set out in AG ¶ 3:

The willingness to safeguard classified or sensitive information is in doubt if there is any reason to suspect an individual’s allegiance to the United States. There is no positive test for allegiance, but there are negative indicators. These include participation in or support for acts against the United States or placing the welfare or interests of another country above those of the United States. Finally, the failure to adhere to the laws of the United States may be relevant if the violation of law is harmful to stated U.S. interests. An individual who engages in acts against the United States or provides support or encouragement to those who do has already demonstrated willingness to compromise national security.

The guideline notes several conditions that could raise security concerns under AG ¶ 4. The following are potentially applicable in this case:

- (a) involvement in, support of, training to commit, or advocacy of any act of sabotage, espionage, treason, terrorism, or sedition against the United States;
- (b) association or sympathy with persons who are attempting to commit, or who are committing, any of the above acts; and
- (c) association or sympathy with persons or organizations that advocate, threaten, or use force or violence, or use any other illegal or unconstitutional means, in an effort to:
  - (1) overthrow or influence the U.S. Government or any state or local government;
  - (2) prevent Federal, state, or local government personnel from performing their official duties;
  - (3) gain retribution for perceived wrongs caused by the Federal, state, or local government; and
  - (4) prevent others from exercising their rights under the Constitution or laws of the United States or of any state.

## SOR ¶ 1.a

SOR ¶ 1.a alleges Applicant is “associated with and sympathetic to the ideologies of the Three Percenters, a domestic militia that advocates resistance to certain U.S. federal policies. Supporters of the Three Percenters were present at the insurrection that occurred at the U.S. Capitol on January 6, 2021.”

The first issue is whether the “Three Percenters” is a domestic militia. Clearly some militia violent extremists call themselves Three Percenters, and some militias have added that to their name. It is not an entity, such as the Ku Klux Klan or the American Nazi Party, where to identify oneself as part of the organization is to identify oneself as an extremist. As the FBI reported: “While many independent or multi-state militia groups incorporate III% in their unit names, the term is less indicative of membership in a single overarching group than it is representative in a common belief in the notion that a small force with a just cause can overturn a tyrannical government if armed and prepared.”

While the Three Percenters math is wrong, their “common belief in the notion that a small force with a just cause can overturn a tyrannical government if armed and prepared” is not in and of itself problematic. That belief worked in 1776. This planet is full of countries with tyrannical governments. The world would be a better place if more of those countries’ citizens were able to overthrow their dictators. The problem in this country is not in the common belief; it is when the followers of that belief also believe the U.S. Government is “a tyrannical government” that needs to be overthrown.

Applicant credibly denied that he is a Three Percenter, that he has ever been a member of a militia or any similar group, or that he supports or is sympathetic to any extremist group. He was horrified by the events at the Capitol on January 6, 2021. He testified that he did not understand the full meaning of the III sticker, and that he came across it on eBay.

Based on the information available at the time of the 2021 investigation, the military criminal investigation division did a criminal and insider-threat analysis and determined that Applicant did not commit a crime and was not an insider threat, with the following in an email dated January 15, 2021:

The FBI has not designated the 3%ers or QAnon as a terrorist organization. Neither of them are organized groups.

The 3%er sticker alone is not an indicator of militia affiliation (see attached [FBI Joint Information Bulletin identified in above Evidence section] and below for more details.

While an internet search for three percenters (III%) and QAnon will yield several sites declaring them anti-government, militia linked, or conspiracy theorists; as with any group there are those who take matters to the

extreme and those who are more conservative in their voice. Displaying a sticker in support of either group does not make an individual a threat.

Applicant had no connection to Three Percenters beyond the sticker. An examination of his government computer and search history revealed numerous searches and websites connected to QAnon, but nothing associated with Three Percenters, Ill%ers, or Threepers. No co-worker ever recalled Applicant making any reference to Three Percenters. Some militias have added Three Percent to their name. Some militias have also added words like "Patriot" to their names. That does not mean that someone who identifies as a patriot also identifies with the militias. With the power of hindsight and the passage of about four years, we now see the connections some Three Percenters have to militia groups. It does not seem fair to hold Applicant to knowledge that even the military criminal investigation division did not have at the time. I am not convinced that Applicant drew the connection when he placed the Ill sticker on his vehicle. Nor am I convinced he associated with or sympathized with a Three Percenter domestic militia. There are no disqualifying conditions applicable to SOR ¶ 1.a, and it is concluded for Applicant.

#### **SOR ¶ 1.b**

SOR ¶ 1.a alleges Applicant is "associated with and sympathetic to the ideologies of QAnon, a political conspiracy theory that had supporters present at the insurrection that occurred at the U.S. Capitol on January 6, 2021."

To many people, QAnon is a joke that cannot be taken seriously. That may be true, but QAnon is also dangerous. The FBI assessed that fringe political conspiracy theories, such as QAnon, very likely motivate some domestic extremists, wholly or in part, to commit criminal and sometimes violent activity. Certain conspiracy theory narratives tacitly support or legitimize violent action. The FBI also assumes that some, but not all, individuals who hold such beliefs will act on them. Some self-identifying QAnon adherents participated in the breach of the U.S. Capitol on January 6, 2021.

I do not believe that Applicant ever intended to commit or support any violent act against the U.S. Government, but his connections to QAnon brought him into association with those who did. AG ¶¶ 4.b and 4.c are applicable.

Conditions that could mitigate allegiance to the United States security concerns are provided under AG ¶ 5. The following are potentially applicable:

- (a) the individual was unaware of the unlawful aims of the individual or organization and severed ties upon learning of these;
- (c) involvement in the above activities occurred for only a short period of time and was attributable to curiosity or academic interest; and
- (d) the involvement or association with such activities occurred under such unusual circumstances, or so much time has elapsed, that it is unlikely to

recur and does not cast doubt on the individual's current reliability, trustworthiness, or allegiance.

Applicant thought QAnon was "basically an online repository of information. There's no ideology. A person can go in and access it and do their own research on it." He stated that it is "kind of like a big puzzle," and "kind of like the Da Vinci Code." He did not agree with everything on QAnon. He felt the QAnon message he sent was anti-racist, and promoted unification, not division. He now feels that he was misinformed. He does not intend to have any further connection in any way to QAnon.

Any person who supports violent acts against the U.S. Government should not hold a security clearance. As indicated above, I do not believe Applicant is one of those individuals. Applicant's interest in QAnon was limited and did not involve any deeper nefarious motives. It does not cast doubt on his current reliability, trustworthiness, or allegiance. Guideline A security concerns are mitigated.

### **Guideline M, Use of Information Technology**

The security concern for use of information technology is set out in AG ¶ 39:

Failure to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems may raise security concerns about an individual's reliability and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information. Information Technology includes any computer-based, mobile, or wireless device used to create, store, access, process, manipulate, protect, or move information. This includes any component, whether integrated into a larger system or not, such as hardware, software, or firmware, used to enable or facilitate these operations.

AG ¶ 40 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

(e) unauthorized use of any information technology system.

On numerous occasions, Applicant accessed QAnon-affiliated websites and social media using his government computer system. On June 29, 2020, and June 30, 2020, he sent emails through his government email account to three other federal employees. Attached to the emails were documents that contained QAnon-associated rhetoric.

The Government did not produce any specific rules or regulation that Applicant violated. At a minimum, DoD Regulation 5500.07-R, *Joint Ethics Regulation* (August 30, 1993), as amended (JER), is applicable. The JER provides that "Federal Government communication systems and equipment (including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems when use is paid for by the Federal Government) shall be for official use and authorized

purposes only.” (JER, subsection 2-301.a.) The JER provides exceptions, including what could be described as the *de minimis* exception. However, it specifically excludes from those exceptions:

[U]ses that would reflect adversely on DoD or the DoD Component (such as uses involving pornography; chain letters; unofficial advertising, soliciting or selling except on authorized bulletin boards established for such use; violations of statute or regulation; inappropriately handled classified information; and other uses that are incompatible with public service. (JER, subsection 2-301.a.(2)(d))

Applicant used his government computer and email for an unauthorized purpose that does not fit within any of the exceptions. AG ¶ 40(e) is applicable.

Conditions that could mitigate the use of information technology security concerns are provided under AG ¶ 41. The following is potentially applicable:

(a) so much time has elapsed since the 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.

QAnon can be many things to many people, and it is not always obviously subversive. The above discussion under Guideline A applies equally here. I believe Applicant made mistakes, but I am convinced that he has learned from the experience. The above behavior happened under unique circumstances; it is unlikely to recur; and it does not cast doubt on his current reliability, trustworthiness, or good judgment. The above mitigating conditions are applicable. Use of information technology security concerns are mitigated.

## **Guideline E, Personal Conduct**

The security concern for personal conduct is set out in AG ¶ 15, as follows:

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 clearance investigative or adjudicative processes.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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; and

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

(1) engaging in activities which, if known, could affect the person's personal, professional, or community standing.

SOR ¶ 3.b cross-alleges the allegations under Guideline A and M. With slight variations, SOR ¶ 3.a essentially alleges the same conduct, but adds that Applicant was barred from all military installations in Country A for ten years and terminated from his employment. The debarment and termination do not constitute conduct. They are the results of conduct. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). Because there are slight variations in the alleged conduct in the two allegations, I am not going to resolve one in Applicant's favor before they are analyzed.

Applicant's conduct reflects questionable judgment and an unwillingness to comply with rules and regulations. The conduct also created vulnerability to exploitation, manipulation, and duress. AG ¶¶ 16(c) and 16(e) are applicable.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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;

(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; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Personal conduct security concerns are mitigated under the same rationale discussed above under Guidelines A and M. Applicant's conduct happened under unique circumstances that are unlikely to recur and does not cast doubt on his current



reliability, trustworthiness, or good judgment. The above mitigating conditions are applicable. Because all of the personal conduct security concerns are mitigated, it is unnecessary to resolve one of the duplicate allegations in Applicant's favor.

### **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 Guidelines A, E, and M in my whole-person analysis. I also considered Applicant's favorable character evidence.

Applicant is either a naïve patriot who bought III and QAnon stickers and was somewhat enthralled by QAnon without fully understanding their significance and the underlying dangers associated with those entities, or he is a supporter of domestic terrorism who was able to keep that hidden from all who knew him best. For all the reasons discussed above, I am convinced he is the former. I believe his co-worker correctly summarized the situation in his statement for the investigation: "[Applicant] has never represented himself as anything other than being patriotic. I think he got himself caught up in something he didn't know what he was getting into."

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 security concerns under Guidelines A, E, and M.

### **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 A:	For Applicant
Subparagraphs 1.a-1.b:	For Applicant

Paragraph 2, Guideline M:	For Applicant
Subparagraphs 2.a-2.b:	For Applicant
Paragraph 3, Guideline E:	For Applicant
Subparagraphs 3.a-3.b:	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.

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Edward W. Loughran  
Administrative Judge