



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



In the matter of:)
)
) ISCR Case No. 23-00543
)
Applicant for Security Clearance)

Appearances

For Government: Carroll Connelley, Esq., Department Counsel
For Applicant: *Pro se*

12/04/2023

Decision

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the Guideline H, drug involvement and substance misuse and Guideline E, personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On May 10, 2023, the Department of Defense (DOD) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline H, drug involvement and substance misuse and Guideline E, personal conduct. The action was taken 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) effective on June 8, 2017.

Applicant answered the SOR on May 18, 2023, and elected to have his case decided on the written the record in lieu of a hearing. Department Counsel submitted the Government’s file of relevant material (FORM), and Applicant received it on July 15, 2023.

He was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 1 through 5 (Item 1 is the SOR and Answer). Applicant provided a response to the FORM, and it is marked as Applicant Exhibit (AE) A through I. There were no objections to any of the evidence and it all was admitted into evidence. The case was assigned to me on August 23, 2023.

Findings of Fact

Applicant admitted the SOR allegation in ¶ 2.a, but in his explanation, he essentially denied the falsification allegation. He denied the allegations in SOR ¶¶ 1.a and 1.b, but essentially admitted the factual aspect except he disputed the timeline that was alleged. He denied SOR ¶ 2.b. His partial admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 45 years old. He earned a bachelor's degree in 2000 and a master's degree in 2010. He married in 2006 and has two minor children. He has worked for a federal contractor since 2013. He obtained a security clearance in approximately 2011. (Items 2, 3)

In March 2011, Applicant completed a Questionnaire for National Security Positions (SF 86). Section 23 asked Applicant if in the last seven years he had used any illegally controlled substances, such as marijuana. He responded "no." (Item 6)

In August 2021, Applicant completed another SF 86. In response to Section 23 about any illegal drug use in the last seven years, he responded that from March 2014 to July 2020 he used "THC." He stated, "Recreational use. A few times in a year. Maybe 10-20 times in the last 7 years." He also admitted that he used marijuana while possessing a security clearance. He stated that he no longer used it because he did not enjoy the effect. (Item 2)

In October 2021, Applicant was interviewed by a government investigator. He later authenticated and adopted the summary of interview in his interrogatories. He did not make any changes to the summary of interview. During the interview he was questioned about his past drug usage. He was asked about his drug usage during the past seven years, and he told the investigator that the only illegal drug he had used in the past was marijuana. He said he only used it by himself. He said he only used marijuana for the purpose of reducing joint pain and inflammation. He said because he is a long-distance runner, the running leads to inflammation and joint pain and that he used marijuana to alleviate the pain and inflammation. He estimated that he only used marijuana about 10 to 20 times. He said he had never used any other drugs. He obtained the marijuana from a former friend. He last used marijuana in July 2020. He has never been diagnosed for drug abuse or participated in drug counseling or treatment. He said that his use had never affected his behavior. He does not socialize or associate with individuals who use drug illegally. He stated he is not likely to ever use or be involved with marijuana or any illegal

drugs in the future. He no longer enjoys marijuana because he had negative side effects from his last use. (Item 4)

In October 2022, Applicant completed another SF 86. In response to the Section 23 question which asked if in the last seven years had Applicant illegally used any drugs or controlled substances, he responded “no.” Section 23 also asked, “Have you **EVER** illegally used or otherwise been **illegally** involved with a drug or controlled substance while possessing a security clearance other than previously listed? Applicant responded “no.” (Item 3)

Applicant was re-interviewed by a government investigator in January 2023. In his interrogatories, he authenticated his statement to the investigator and did not make any changes. He was asked if he had been involved with using illegal drugs in the past seven years. He responded “no.” He was asked when he last used marijuana and he responded it was more than seven years ago, so he was not required to report it on his SF 86. He told the investigator that his last use was in 2014. He was asked if he held a security clearance when he used marijuana in 2014 and he responded yes. He said he used marijuana about three times between 2011 and 2014. He smoked dried flowers in a pipe. He would use it for joint pain he experienced from being a long-distance runner. He told the investigator that he did not use marijuana in any other form and had not used any other illegal substance or misused prescription medication while holding a security clearance. He said he was provided the marijuana but could not recall by whom. (Item 4)

Applicant further told the investigator that he first used marijuana in 1996 while in college and shortly after college about five times a year until 2011. He would smoke it with a pipe. He told the investigator that he never used marijuana in any other form such as oils or edibles. He is no longer in contact with any of the people he used marijuana with during this period. (Item 4)

Applicant told the investigator that he had not used marijuana since 2014 and had no intention to use it in the future. He reiterated that he used it for joint pain. He said he never used marijuana while working. He explained that he did not disclose his use on his most recent SF 86 because he believed he only had to report his marijuana use for the past seven years, not ever. He said his omission was unintentional. (Item 4)

In Applicant’s response to government interrogatories, he was asked the following question:

Under FEDERAL Law (understanding that marijuana is not legal Federally) have you **ever illegally USED any drug or control substance** any narcotic, depressant, stimulant, hallucinogen (to include LSD or PCP) and/or any Cannabis (to include marijuana, CBD and hashish) or **misused any prescription medication?**

He responded “yes” and listed his marijuana use from August 1996 to April 2014. He reported his frequency of use was one to two times a year. He did not intend to use marijuana in the future. He stated,

The frequency of use specified above does not apply to all years between the first and last use dates, and instead represent a loose estimate of an average frequency over the specified time period. There were, in fact, a number of years that involved zero marijuana use. (Item 4)

This question specifically requests disclosure of cannabidiols (CBD). He did not disclose any CBD use.¹

SOR ¶ 1.a alleged Applicant used marijuana with varying frequency from about 1996 to about July 2020. SOR ¶ 1.b alleged he used marijuana with varying frequency

¹ The Security Executive Agent for the United States Government provided clarifying guidance concerning marijuana on December 21, 2021. Part of that guidance addressed CBD products:

With respect to the use of CBD products, agencies should be aware that using these cannabis derivatives may be relevant to adjudications in accordance with SEAD 4. Although the passage of the Agricultural Improvement Act of 2018 excluded hemp from the definition of marijuana within the Controlled Substances Act, products containing greater than a 0.3 percent concentration of delta-9 tetrahydrocannabinol (THC), a psychoactive ingredient in marijuana, do not meet the definition of “hemp.” Accordingly, products labeled as hemp-derived that contain greater than 0.3 percent THC continue to meet the legal definition of marijuana, and therefore remain illegal to use under federal law and policy. Additionally, agencies should be aware that the Federal Drug Administration does not certify levels of THC in CBD products, so the percentage of THC cannot be guaranteed, thus posing a concern pertaining to the use of a CBD product under federal law. Studies have shown that some CBD products exceed the 0.3 percent THC threshold for hemp, notwithstanding advertising labels (Reference F). Therefore, there is a risk that using these products may nonetheless cause sufficiently high levels of THC to result in a positive marijuana test under agency-administered employment or random drug testing programs. Should an individual test positive, they will be subject to an investigation under specific guidelines established by their home agency.

The Substance Abuse and Mental Health Services Administration (SAMSHA) provided a warning about CBD products on July 24, 2019:

Studies have shown that some CBD products’ labeling does not accurately reflect their content. Cannabis based products containing a THC level greater than 0.3% on a dry weight basis do not fall under the Farm Bill’s definition of hemp even if they are labeled as such. In one study, the amount of CBD in 69% of the 84 tested CBD products was inconsistent with that on the label, and some products contained unlabeled cannabinoids, including THC in amounts up to 6.4 mg/ml. As such, an employee’s drug test may be positive for the THC metabolite, delta-9-tetrahydrocannabinol-9-carboxylic acid (THCA), due to THC in the CBD product.

SAMSHA further advised that “federal agencies should make every effort to inform applicants and employees of the risk that using such products may result in a positive marijuana test.”

from about April 2011, to about July 2020, while granted access to classified information. (Item 1)

Applicant denied SOR ¶ 1.a based on the dates. He admitted to using marijuana infrequently between 1996 and 2014. He stated in his SOR answer that he did not report his use on his SF 86 because it was outside the seven-year period. He stated,

When answering the e-QIP questionnaire in 2021, I collectively referred to both marijuana usage in 2014 (which was within the specified 7 year window at that time) and CBD marijuana usage for a recurring autoimmune health issue that would periodically flare up during periods of intense training for marathon races and cause severe joint pain. This continued until approximately July 2020. At that time, I discontinued CBD usage and sought treatment from a rheumatoid specialist and have submitted record of one of several appointment. (Item 2)

Applicant further stated in his SOR answer the following:

Further, I did not include CBD marijuana usage because the general perception of, and stance on, CBD marijuana has been continually evolving in recent years. Given the growing popularity of CBD usage for health and wellness, the determination of how to distinguish between it and other forms of marijuana usage has shifted and has made answering these questions challenging. In retrospect, I sincerely regret omitting CBD usage in my 2022 e-QIP questionnaire and 2023 interview. I now recognize that this information should have been disclosed in the interest of transparency. (Item 2)

In his SOR answer, Applicant provided a timeline of his drug use:

1996-2002: Occasional marijuana usage while attending college and post-graduation.

2003-2012: No usage of marijuana.

2012-2014: Infrequent usage of marijuana during periods of rheumatic flare-ups.

2014-2020: Periodic usage of CBD during intense training and rheumatic flare-ups.

Applicant stated in his SOR answer to allegation ¶ 1.b the following:

Again, I deny this statement due to the end date. As explained in ¶ 1.a, I admit to using marijuana very infrequently from 2012 to 2014 while granted access to classified information. This usage was tied to periodic rheumatic flare-ups that occurred during intense periods of training for long-distance running races. These flare-ups subsided for a period of time after 2014, during which I ceased usage of marijuana. When the next flare-up occurred,

I was able to obtain CBD marijuana and opted for that as I felt it was more appropriate therapy for my joint pain and didn't have the unpleasant and undesirable aspect of smoke inhalation. By 2020, the CDB medication was no longer effective and instead causes some dizziness and nausea. (Item 2)

SOR ¶ 2.a alleged Applicant falsified his October 2022 SF 86 when he failed to disclose his marijuana use from 1996 to July 2020 and his use from April 2011 to July 2020, while granted access to classified information. Although he admitted the allegation, he stated he did not include his CBD usage when responding to his October 2022 SF 86. He said it was not with the intent to falsify but was an honest change in his understanding of the classification of CBD. He said it was a judgment call because CBD did not meet the qualification of a drug or controlled substance. He said his omission was not deliberate or duplicitous, but instead a result of shifting sentiment towards CBD as a legitimate and legal health and wellness treatment. He was aware that his 2022 SF 86 would be compared to his 2021 SF 86. (Item 1, 2)

Applicant's explanation in his SOR answer for why he failed to disclose if he had ever used marijuana while having access to classified information in his October 2022 SF 86 was because the question was different than the one asked on his 2021 SF 86, which he said only asked about the previous seven years. He said it was an honest oversight and not an attempt to provide false information. He said he admitted the information when it was brought to his attention in his 2023 interview. (Item 2)

SOR ¶ 2.b alleged Applicant deliberately falsified material facts during a personal subject interview conducted in July 2023, when he stated he had not used illegal drugs or controlled substances in the past seven years. Applicant denied the allegation and stated it was his understanding that CBD usage did not qualify as an illegal drug or controlled substance. He said the focus of the interview "was on pure marijuana usage." It was only when it was pointed out to him by the investigator that the question asked if he had "EVER" used marijuana while in possession of a security clearance, to which he answered he had done so in 2014. Medicinal marijuana has been legal in the state where Applicant lives since 2013. He did not provide evidence that he had a prescription for it. (Item 2)

Applicant provided a response to the FORM. He disputed the arguments in the brief provided by Department Counsel.

In his FORM response, Applicant said he "was confused by a few questions that are open to interpretation, legal technicalities concerning CBD and some fuzzy recollections from decades in the past." He further stated, "An indisputable fact present in both interpretations is that I used marijuana and CBD a small number of times over a number of years while in possession of a security clearance." Applicant provided additional explanations and interpretations to his answer and interview statements. He said he should not have used the word "recreational" when describing his marijuana use

but should have said it was therapeutic. He said the interview focused on marijuana usage such as smoking. He said he always mentioned he used it for joint pain. (AE A)

Applicant unequivocally reported on his 2021 SF 86 and during his 2021 background interview, which was not corrected when he responded to interrogatories, that he used marijuana up through July 2020. His later self-serving statements that he used CBDs, not marijuana, between 2014 and 2021 are not credible. I find that he used marijuana up through July 2020.

Applicant provided numerous character letters in his SOR answer and response to the FORM. He is described as a person of integrity. He is dedicated, professional, responsive, dependable, honest, loyal, creative, productive, and reliable. He is tireless in his work ethic. He is perpetually challenging himself to be a better person. The letters do not mention if they are aware of the specific allegations in the SOR. Those providing letters recommended that he retain his security clearance. (Item 2, AE B, C, D, E)

Policies

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. 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(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." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states 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 as to obtaining 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 as to 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 H: Drug Involvement and Substance Misuse

The security concern relating to the guideline for drug involvement and substance misuse is set out in AG ¶ 24:

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.

AG ¶ 25 provides conditions that could raise security concerns. The following are potentially applicable:

- (a) any substance misuse;
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution, or possession of drug paraphernalia; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

I find by substantial evidence² that Applicant used marijuana with varying frequency from about 1996 to July 2020. AG ¶¶ 25(a) and 25(b) apply. I find, although

² Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See, e.g., ISCR Case No. 17-

the evidence supports that Applicant used marijuana while holding a security clearance, there is insufficient evidence to conclude he had access to classified information when he was using marijuana. AG ¶ 25(f) does not apply. I find in his favor on SOR ¶ 1.b.

The guideline also includes conditions that could mitigate security concerns arising from drug involvement and substance misuse. The following mitigating conditions under AG ¶ 26 are potentially applicable:

(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; and

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions to overcome the 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 being 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 stated in his interviews, answer to the SOR, and response to the FORM that he did not intend to use marijuana in the future. That may be true. However, I have concerns about his past willingness to use it while holding a security clearance. His conduct casts doubt on his reliability, trustworthiness, and good judgment. He admitted it was a mistake, but his use was not a one-time out of character event. It was not the result of youthful indiscretion or experimentation. Rather, he repeatedly used it, regardless of why, with little or no regard to the fact that he had a security clearance, and it was illegal. He provided a document to show he was seeing a doctor for his joint pain. He did not provide evidence that the doctor advised him to use marijuana or even CBD, which he later indicated he was using. As noted in the above paragraph as to the security concern, it says illegal drug use raises questions about a person's ability or willingness to comply with laws, rules, and regulations. Those concerns remain. I find the above mitigating conditions do not apply.

04166 at 3 (App. Bd. Mar. 21, 2019) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "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); ISCR Case No. 04-07187 at 5 (App. Bd. Nov. 17, 2006).

Guideline E: Personal Conduct

AG ¶ 15 expresses the security concern for personal conduct:

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 information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

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

(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 security eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false, or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination or other official government representative.

I find by substantial evidence that Applicant deliberately falsified his October 2022 SF 86 when he failed to disclose his marijuana use while possessing a security clearance and his use within the past seven years. Substantial evidence supports that during Applicant's subject interview with a government investigator in January 2023, he falsified material facts when he stated he did not use any illegal drugs or controlled substances in the past seven years.

In August 2021, Applicant completed an SF 86. In response to Section 23 about any illegal drug use in the last seven years, he responded that from March 2014 to July 2020 he used "THC." He stated, "Recreational use. A few times in a year. Maybe 10-20 times in the last 7 years." He also admitted that he used marijuana while possessing a security clearance. He stated that he no longer used it because he did not enjoy the effect. He also stated that he had purchased the marijuana from a friend.

In October 2022, Applicant completed another SF 86. In response to the Section 23 question which asked if in the last seven years had Applicant illegally used any drugs or controlled substances, he responded "no." Section 23 also asked, "Have you **EVER**

illegally used or otherwise been **illegally** involved with a drug or controlled substance while possessing a security clearance other than previously listed? Applicant responded “no.”

During Applicant’s January 2023 interview with a government investigator, he was asked when he last used marijuana and he responded it was more than seven years ago, so he was not required to report it on his SF 86. He told the investigator that his last use was 2014. He was asked if he held a security clearance when he used marijuana in 2014 and he responded “yes.” He said he used marijuana about three times between 2011 and 2014. He smoked dried flowers in a pipe. He told the investigator that he never used marijuana in any other form such as oils or edibles.

It was in Applicant’s answer to the SOR in May 2023 that he stated he did not include his CBD usage when responding to his October 2022 SF 86. He said it was a judgment call because CBD did not meet the qualification of a drug or controlled substance. He said his omission was not deliberate or duplicitous, but instead a result of shifting sentiment towards CBD as a legitimate and legal health and wellness treatment. I do not find Applicant’s statements credible. He had numerous opportunities to disclose his interpretations in the written SF 86 and to the investigator during his January 2023 interview but failed to do so. He clearly stated his past uses were marijuana. He was specifically asked how he ingested the marijuana and he said he always smoked it. He said he did not use oils or edibles. He never mentioned to this investigator that his usage was CBD. Applicant stated in his October 2021 interview that he purchased the marijuana from a friend. He does not mention that he purchased CBD. He does not explain if his marijuana use was medicinal why he was purchasing it from a friend. I find Applicant deliberately falsified material facts during his subject interview in January 2023.

The guideline also includes conditions that could mitigate security concerns arising from personal conduct. I have considered the following mitigating conditions under AG ¶ 17:

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

Applicant did not make a prompt good-faith effort to correct his omissions and falsifications. Applicant’s conduct is not minor. AG ¶ 17(a) does not apply. The government relies on those holding security clearances to disclose the information requested. Applicant is well educated. His character letters reflect that he works on complex programs and is involved in cutting edge issues. The government expects people to be honest and forthright when responding to questions and not parse varied

interpretations of relatively simple questions. Applicant's conduct casts doubt on his reliability, trustworthiness, and good judgment. AG ¶¶ 17(b) does 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 have incorporated my comments under Guidelines H and E in my whole-person analysis.

Applicant failed to meet his burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline H, drug involvement and substance misuse and Guideline E, personal conduct.

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 H:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant

Conclusion

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

Carol G. Ricciardello
Administrative Judge