



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



In the matter of: )  
)  
) ISCR Case No. 22-01055  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Sakeena Farhath, Esq., Department Counsel  
For Applicant: Christopher Snowden, Esq.

11/28/2023

**Decision**

HOGAN, Erin C., Administrative Judge:

This case involves security concerns raised under Guideline I (Psychological Conditions). Applicant provided sufficient information to mitigate the security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application on May 23, 2018. On July 7, 2022, the Defense Counterintelligence & Security Agency Consolidated Adjudication Services (DCSA CAS) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline I, Psychological Conditions. The CAS acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), effective within the Department of Defense on June 8, 2017.

Applicant answered the SOR on September 4, 2022, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on December 1, 2022, and the case was assigned to me on June 14, 2023. On August 8, 2023, the Defense Office of Hearings and Appeals (DOHA) notified Applicant and his counsel that the hearing was scheduled to be conducted by video-teleconference on September 13, 2023. I convened the hearing as scheduled. Government Exhibits (GE) 1 through 8 were admitted in evidence without objection. At Department Counsel's request, I took administrative notice of information about "Major Depressive Disorder" and "Borderline Personality Disorder" set out in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). The pertinent portions of DSM-5 are attached to the record as Hearing Exhibit III. Applicant testified and offered Applicant Exhibits (AE) A -U, which were admitted without objection. On September 14, 2023, Applicant offered AEs V and W, which were admitted without objection. DOHA received the transcript (Tr.) on September 22, 2023.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

### **Procedural Issue**

During the hearing, the Government moved to amend SOR ¶ 1.a pursuant to Directive paragraph E3.1.17, as follows:

b. In about September 2017, you were admitted for mental health treatment at [Name of hospital redacted for privacy purposes. The name of the hospital can be found in the transcript at p. 80] Veterans Affairs (VA) Medical Center for about five days. You were diagnosed with major depressive disorder, recurrent, moderate; suicidal ideation; and post-traumatic stress disorder, chronic.

The amendment was approved without objection.

### **Findings of Fact**

In Applicant's answer to the SOR, he denied SOR ¶¶ 1.a and 1.d and admitted SOR ¶¶ 1.b and 1.c. His admissions are incorporated in my findings of fact.

Applicant is a 38-year-old employee of a DOD contractor seeking to maintain a security clearance. He has worked for his current employer since January 2021. He previously worked for another contractor from 2015 to 2021. Prior to that he served on active duty in the United States Army from March 11, 2008, to October 6, 2014. He deployed to Iraq from August 2009 to July 2010. He received an Honorable Discharge. He served in the Army Reserve after separating from active duty from 2014 to February 2020. He held a security clearance in the Army. He has a high school diploma and some

college credit. He is divorced and has no children. (Tr. 15-21; Response to SOR; GE 1; AE B; AE I)

The SOR alleges that Applicant has a history of mental health issues which raise a security concern, to include:

1.a In September 2017, Applicant was admitted for mental health treatment at [Redacted for Privacy] Veterans Affairs (VA) Medical Center for five days inpatient treatment. He was diagnosed with major depressive disorder, recurrent, moderate; suicidal ideation; and post-traumatic stress disorder (PTSD), chronic. (GE 1 at 37-38; GE 2 at 8)

1.b Applicant received mental health treatment at the VA Medical Center from September 2017 to April 2019 for treatment related to suicidal ideation and major depressive disorder. The record evidence indicates this was outpatient treatment. (GE 2 at 5, 8; GE 6; GE 7)

1.c In December 2017, Applicant was admitted to [Redacted for Privacy] Hospital for three days for depression and suicidal ideation. He was diagnosed with major depressive disorder, severe, recurrent, without psychotic features. He was discharged in good condition. (GE 1 at 38; GE 2 at 8; GE 5)

1.d Finally, Applicant was evaluated by a licensed psychologist on June 14, 2021. The psychologist determined he had a history of persistent depression and emotional dysregulation, which seems to worsen in response to significant psychological stressors. There was concern he was not engaged in psychotherapy nor receiving medication management although he was open and eager to receive services. If Applicant was able to receive consistent therapeutic support, his prognosis would be favorable. His emotional functioning appeared to be contingent on the level of stability in his environment, as disruptions in attachment have precipitated his emotional and behavioral dysregulation, leading to impulsive behaviors and safety concerns. At the time of the evaluation, he presented with stability in mood, with absence of clinically significant difficulties that would interfere with his judgment, reliability and trustworthiness. However, to ensure his stability over time, engagement in treatment is recommended. (GE 3; GE 4)

Applicant and his wife married in 2008. His deployment in 2010 was not good for his marriage. He and his wife had poor communication. Applicant was unfaithful to his wife. His wife discovered he was unfaithful in April 2017. She moved out of the house in December 2017. The divorce was final in October 2019. Applicant became depressed because of the break-up of his marriage and sought treatment in September 2017 because he was having suicidal ideations. He made two unsuccessful attempts to kill himself and realized he needed help. He was inpatient for five days and was put on medication. He claims he never received a formal diagnosis, but admits he was depressed. The medical records indicate he was diagnosed with major depressive disorder, recurrent moderate; suicidal ideation; and PTSD, chronic. (Tr. 21-27; GE 2 at 5, 8; GE 6; GE 7)

Upon his discharge, Applicant attended outpatient treatment through the VA medical center from September 2017 to April 2019. He met with Ms. R., a therapist with the VA. He also attended group meetings, Sex Addicts Anonymous meetings, and was also prescribed anti-depressant and anti-anxiety medication. He attended weekly single and group therapy. On occasion, he would attend bi-weekly. He felt the therapy was very beneficial to him. It helped him move on from a period in his life when he felt isolated and depressed. It also helped him deal with his divorce. The medication helped him stabilize his mood and thoughts. (Tr. 27-29)

On December 24, 2017, Applicant was admitted to the hospital for depression and suicidal ideation. He was diagnosed with major depressive disorder severe, recurrent, without psychotic features. Applicant testified he does not remember what happened on December 24<sup>th</sup>, other than it was a bad day. He woke up in the hospital. The episode was described by medical personnel as transient global amnesia. The medical records indicate Applicant came to the hospital because he was depressed about his pending divorce from his wife. At some point before going to the hospital, he texted his wife that he was going to hang himself. He also believes he contacted his sister but does not recall what he told her. His sister called 911 and the police took him to the emergency room of another hospital. He was transported to the treating hospital via ambulance. (GE 5 at 2, 4; GE 6 at 43-49) He stayed in the hospital for three days. During his stay he spoke to a doctor on two occasions and attended group therapy sessions. He was also prescribed medication to stabilize him. He was discharged after three nights in good condition. Ms. R, his therapist at the VA, was told about this incident. His treatment remained the same. (Tr. 29-32; GE 5; GE 6 at 43-49)

Applicant's therapy sessions at the VA taught him strategies on how to cope with his depression and anxiety to include daily exercise and getting involved in outside activities. He works out every day. Exercise keeps him motivated and stable. (Tr. 32-33; AE G; AE T). He is a member of an adult baseball team. (AE R) He also started attending church services again and participates in young adult gatherings to include barbeques. He credits his brother and sister with providing support. (Tr. 33-35, 39; AE F; AE S) In 2017, he did not have a good support network, he has worked on becoming more involved and now has a good support network. He also has a new girlfriend whom he has known since 2019 but started dating in 2023. (Tr. 37, 46; AE Q)

During his first hospitalization in September 2017, Applicant lost his right to own firearms. In September 2017, Applicant petitioned the court for Restoration of Right to Own, Possess, Control, Receive or Purchase Firearms. Before the hearing date, he met with Dr G., a licensed psychologist, at least twice. Dr. G. assessed Applicant's mental health to determine whether he was capable of safely possessing and using firearms. She prepared a report which was submitted to the court. The court found by a preponderance of the evidence that Applicant was able to use firearms in a safe and lawful manner and that there was no current danger to himself or others. The court granted Applicant's petition on June 5, 2018. (Tr. 77; AE N)

Applicant self-reported his mental health issues on his electronic questionnaire for investigations processing (e-QIP) on May 23, 2018. (GE 1) He provided additional information about his mental health issues and treatment in response to DOHA Interrogatories, dated June 17, 2022. (GE 2)

### **Psychological Evaluations and Therapy**

At the request of the DOD CAF, Applicant was evaluated by Dr. M.L., a licensed clinical psychologist, on June 14, 2021. The evaluation was conducted on-line since Applicant is currently located overseas. The psychologist noted Applicant said he was in good health and was not taking any form of medication at the time of the interview. He was also not actively engaged in mental health services, though he reported interest in pursuing psychotherapy supports. He stopped going to therapy in July 2018 when he relocated to a new city and had difficulty accessing services. He was previously prescribed sertraline and fluoxetine for mood, and hydroxyzine as needed for sleep. He no longer takes medication. (GE 3; GE 4)

Applicant reported a history of sexual addiction, which began in adolescence with pornography. He spent approximately four hours per day online. From 2011 to 2013, he received treatment with a social worker. His sex addiction later escalated. He began having affairs during his marriage, which ultimately led to his divorce. He reported he has been “clean and sober” from his sexual addiction for at least three years. He credits his meetings with Sex Addicts Anonymous as “a big part of his recovery.” He no longer attends meetings but has developed insight surrounding his patterns of addiction and their association with trauma and suppression. (GE 3)

Applicant was described as “open and engaged during the clinical interview.” His current judgment was assessed to be clear. His narratives during the clinical interview and documentation provided by the CAF were highly consistent. Dr. M. L. concluded the information provided during the assessment is thought to be a valid representation of his current functioning. (GE 3 at 8)

Applicant completed the Personal Assessment Inventory (PAI), a 344 item, self-administered objective inventory of adult personality. Applicant’s responses did not result in any clinically significant elevations across domains that would be suggestive of current clinical psychopathology. His results reflected mid-to-moderate areas of difficulty in regard to maladaptive behavior patterns aimed at controlling anxiety. It is consistent with what would be expected for an individual who experienced a disturbing traumatic event that contributes to periods of distress and recurrent periods of anxiety. (GE 3 at 8)

Dr. M.L. concluded Applicant did not currently meet criteria for PTSD, though complex trauma is an important consideration in his diagnostic presentation. Dr. M.L. noted some indications of borderline personality traits, but she would have to conduct additional tests to make a conclusion. His prolonged emotional stability appears to be contingent on the stability of his environment and relationships which warrants concern around his propensity for coping in response to stressors. (GE 3 at 10)

Dr. M.L. concluded that Applicant has a history of persistent depression and emotional dysregulation, which seems to worsen in response to significant psychosocial stressors. Dr. M.L. was concerned that he was not engaged in psychotherapy or receiving any medication management, though he reported being quite open and eager to receive services and has experienced barriers to accessing consistent care. With consistent therapeutic supports in place to be able to manage his response to stressors in his environment, his prognosis is favorable. His emotional functioning appears to be contingent on the level of stability in his environment, as disruptions in attachment have precipitated his emotional and behavioral dysregulation, leading to impulsive behaviors and safety concerns. Applicant presents with stability in mood, with an absence of clinically significant difficulties that would interfere with his judgment, reliability, or trustworthiness at this time. However, to ensure his stability over time, engagement in treatment is strongly recommended. (GE 3 at 10)

In May 2023, Applicant started attending online counseling sessions with Mr. C., Master of Science (MS), Licensed Professional Counselor (LPC). Applicant meets with Mr. C. once a week, provided it does not interfere with his work schedule. He is working with Mr. C. on three goals. First, understanding and distinguishing past relationship dynamics to develop healthier relationship patterns in the future. Second, discussing ways to cope and manage current relationship challenges in his life. Third, identify strategies to help through various life changes and transitions. (Tr. 39-42; AE U)

Mr. C. provided a statement indicating that Applicant continues to engage in therapy. He has reviewed and discussed tools to reduce frequency and intensity of emotions, create daily self-care routines, ways to build/maintain healthy relationships, and identifying specific needs during times of transitions such as relocation, relationship development, and job changes. He has counseled Applicant on strategies related to self-care assessment, values: self-exploration, meaningful relationships, grounding techniques, sleep hygiene, and setting boundaries (communication techniques). (AE U)

Applicant was provided a self-care assessment, Generalized Anxiety Disorder – 7 (GAD-7). He measured on the GAD-7 assessment as “no to minimal” anxiety range. Individuals within this range demonstrate minimal to no daily anxiety symptoms that would impact their daily or executive functioning. He was also given a Patient Health Questionnaire-9 related to depression. He measured in the “no to minimal” depression range. This range would indicate an individual has minimal difficulties with elevated moods being directly related to situational and/or expected stressors (e.g. strained relationships, work, society/cultural conflict.) (AE U)

Mr. C. indicated Applicant has made moderate progress since starting therapy. He states adjustment disorder with minor depressive traits would be most aligned with Applicant’s reported symptoms. He recommends Applicant to continue to engage in weekly/bi-weekly therapy sessions, addressing ongoing reported strain with stress, difficulties with social/relationship situations, and professional challenges which impact mood and relate to transitions. (AE U) Applicant testified that he has a great relationship with Mr. C. He meets with him between 45 minutes to an hour each week if his work

schedule permits. So far, he spent about 11 hours total in counseling sessions with Mr. C. and intends to keep seeing him even when he transfers to his new job location. (Tr. 40-41)

On August 28, 2023, Applicant was evaluated by Dr. J.B.C., a licensed psychologist. The evaluation was conducted on-line. She reviewed Applicant's background history which is consistent with the record evidence and Applicant's testimony. She also reviewed the 2021 psychological evaluation of Dr. M.L., who was hired by the DOD to assess Applicant's mental health situation. Dr. J.B.C. states:

As of this evaluation in 2023, the client does not present with any clinically significant difficulties, maintains a stable mood, engages in numerous self-care techniques to maintain proper diet, sleep hygiene, physical fitness and emotional and spiritual wellness. Additionally, he is in routine psychotherapy and is engaged in a new relationship. He has gained a great deal of insight into his own behaviors and how those affect others as well as insight into what precipitates depressive symptoms. (AE V)

During the clinical interview, Dr. J.B.C. noted Applicant's judgment is adequate and insight is good. He was cooperative and friendly and did not appear to be making efforts at deception. (AE U at 3) Applicant completed the PAI, a 344 item, self-administered objective test of personality and psychopathology. His PAI clinical profile is entirely within normal limits. According to his self-report, Applicant reported no significant problems in the following areas: unusual thoughts or peculiar experiences; antisocial behavior; problems with empathy; undue suspiciousness or hostility; extreme moodiness and impulsivity; unhappiness and depression; unusually elevated mood or heightened activity; marked anxiety; problematic behaviors used to manage anxiety; and difficulties with health or physical functioning. He also reported no significant problems with alcohol or drug abuse or dependence. (AE V at 3)

Dr. J.B.C. notes there was an elevation on the anxiety-related disorder scale-traumatic stress. She notes it is a one scale elevation and not an overall pattern. She discussed lingering traumatic stressors with Applicant, specifically some of the events that occurred during his deployment to Iraq which trouble him at times. While not physically injured, he was exposed to nearly daily rocket attacks. He had a close call when one landed just outside the entrance to the dining hall while he was finishing lunch. (AE V at 4)

Applicant also completed the SPECTRA: Indices of Psychopathology, a brief 96-item self-administered, multiscale measure of psychopathology and functioning. His score was within normal limits. (AE V at 4)

Dr. J.B.C. concludes that based on available past medical and current data, Applicant qualifies for a diagnosis of major depressive disorder, recurrent, in full remission. She opines Applicant does not present with any conditions at this time that could pose a significant risk to his judgment, reliability or trustworthiness. He has gained a great deal

of insight into what precipitates his depressive episodes and is able to identify themes and behaviors that would indicate that he may be experiencing another episode, therefore, he can prevent that from happening in the future. Applicant is actively engaged in routine psychotherapy and understands the importance of that type of support. The risk to judgment and reliability for any future mental health problems is low. (AE V at 4)

Applicant has had no incidents since December 2017. He is still working on issues related to his divorce, but believes he is doing well. He believes treatment has helped a lot. (Tr. 41-42)

### **Matters Not Alleged in the SOR**

Department Counsel questioned Applicant about several matters that were not alleged in the SOR. Because they are not alleged in the SOR, these matters are not considered as disqualifying conduct, though they may be considered to evaluate evidence of extenuation, mitigation, or changed circumstances, to consider whether an applicant has demonstrated successful rehabilitation, or as part of a whole-person analysis. ISCR Case No. 03-20327 at 4 (App. Bd. Oct 26, 2016). I will consider these unalleged matters, accordingly.

In 2014, while on active duty, a new First Sergeant came to Applicant's unit. Applicant did not get along with him. The First Sergeant wrote him up for failure to obey orders. Applicant had an agreement with the previous First Sergeant that he could leave work early on Wednesdays to attend his bowling league. He continued to leave early on Wednesdays. It is not clear whether he sought authorization from his new First Sergeant. He was written up for leaving work early without prior authorization. (GE 1 at 17; GE 2 at 7)

In April 2018, Applicant was written up at his civilian job for performing an action without a verifier present. The action required a person to take the action and another person to verify the action. Applicant had just started a new medication and was experiencing side effects including drowsiness. He performed the action on his own. He admits his actions could have caused damage. He received a warning for this violation. Applicant switched medications and became more careful with following policies and regulations. (Tr. 49; GE 1 at 15; GE 2 at 7)

In May 2018, Applicant and three co-workers were written up and suspended from work for not clicking on the satellite prompt that said "enable." He and his co-workers read the prompt as saying "enabled." He was suspended for three days. He is now more careful when reading satellite prompts. He understands the importance of his job and takes his job seriously. (Tr. 50-51; GE 2 at 8)

In December 2020, Applicant received a letter from the commander of his reserve unit informing him that he accumulated nine or more unexcused absences in a one-year period, failed to attend or complete Annual Training, or failed to obtain a unit of assignment during a leave of absence. He was declared an unsatisfactory participant, in



other words, he had a bad year. As a result, Applicant was transferred from the Selected Reserve (SELRES) to the Individual Ready Reserve (IRR). This is an administrative action taken against reservists who do not fulfill all of their required training days in a one-year period. Applicant had the opportunity to appeal this action but opted to be transferred to the IRR. (GE 8) Applicant testified that he stopped attending drills when he moved to another city and his work schedule conflicted with drill weekends. (Tr. 52-53) I conclude this action does not have security significance.

### **Whole-Person Evidence**

Several friends and colleagues wrote letters of support for Applicant. Mr. J.C., Applicant's current supervisor, has worked with him since March 2021. He notes that Applicant has been recognized on two occasions for his outstanding performance. He achieved a satisfactory score for a COMSEC folder inspection. The inspecting unit mentioned that "The [Unit] team maintains an exemplary COMSEC program." He was a member of a two-person team which successfully implemented a "Milstar Network Cutover event". His efforts ensured the network event transitioned on schedule with no impact to the mission critical communications system. Mr. J.C. concludes by saying that Applicant exemplifies what it means to be dedicated to the mission and takes extreme pride in his work. He has become a valuable asset to the team in a short amount of time. (AE A)

Dr. B. is executive director of a facility that works with males who are homeless, suffer from mental health issues, in probation/parole, and/or struggle with drug addiction. He has known Applicant for 30 years. They attended the same elementary school and high school. They know each other's families. At one point, they were married to two sisters until Applicant and his wife divorced. He is aware of many of the details of what Applicant went through during the divorce, but he and his spouse designated him to be one of three individuals to manage their assets and care for their three daughters should something happen to them. They chose him because they wanted a person who would do the right thing for their children. Applicant is honest, responsible and trustworthy. (AE A)

The pastor of Applicant's church has known Applicant since May 2021. He attends Sunday services regularly. He participates in after service barbeques, and attends weekly Bible study sessions on Wednesday evenings if his work schedule permits. He looks forward to his spiritual growth and further involvement in the congregation. (AE E)

Applicant's most recent performance evaluation for the period from May 2022 to April 2023, is favorable. His overall performance rating is "Generally Meets Requirements." His was noted for maintaining his employer's high standards of quality assurance and functional area management. He is consistently early for all scheduled work shifts and willing to come in on non-scheduled days if needed. He routinely asks for things to do or items to accomplish. (AE P) His performance evaluation from May 2021 to April 2022 is equally favorable. (AE D) Applicant's NCO Evaluation Reports while in the reserves met or exceeded standards. (AE C)

Applicant's awards and decorations while on active duty include the Army Commendation Medal; the Army Achievement Medal (2<sup>nd</sup> Award); Meritorious Unit Commendation Medal; Army Good Conduct Medal (2<sup>nd</sup> Award); National Defense Service Medal; Global War on Terrorism Service Medal; Iraq Campaign Medal W/ Campaign Star; NonCommissioned Officer (NCO) Professional Development Ribbon; Overseas Service Ribbon; Expert Marksmanship Badge W/Grenade Bar; Expert Marksmanship Badge W/ Pistol Bar; Expert Marksmanship Badge W/ Rifle Bar; and Certificate of Achievement. (AE B; AE J)

### **Policies**

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v.*

*Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531.

## **Analysis**

### **Guideline I, Psychological Conditions**

The concern under this guideline is set out in AG ¶ 27:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The allegations in SOR ¶¶ 1.a-1.d are supported by the medical records and Applicant's testimony.

The following disqualifying conditions under this guideline are relevant:

AG ¶ 28(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;

AG ¶ 28(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

AG ¶ 28(c): voluntary or involuntary inpatient hospitalization.

AG ¶ 28(a) applies because of Applicant's two suicide attempts and suicidal ideations in 2017.

AG ¶ 28(b) is established by the psychologist's report requested by DOD CAF, which is specifically alleged in SOR ¶ 1.d.

AG ¶ 28(c) is established because of Applicants two voluntary inpatient hospitalizations in September 2017 and December 2017.

The following mitigating conditions are potentially applicable:

AG ¶ 29(a): the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

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;

AG ¶ 29(c): recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation::

AG ¶ 29(d): the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

AG ¶ 29(e): there is no indication of a current problem.

AG ¶ 29(a) applies. Applicant sought out and was responsive to treatment for his major depressive disorder and suicidal ideations in 2017. He took medication and attended mostly weekly, but sometimes bi-weekly counseling sessions with a therapist from the VA. He implemented the suggested coping mechanisms from his therapist. He took medication to deal with his depression and anxiety until he felt he no longer needed them. He now exercises regularly; is involved in his church; plays on an adult baseball team and is more engaged with others. He is doing well.

AG ¶ 29(b) applies. While Applicant stopped taking medication and attending counseling in April 2019, he still followed the recommended actions that would help him cope and deal with stress. In May 2023, Applicant began seeing a therapist on a weekly basis to deal with some residual feelings related to his divorce; to learn how to cope and manage current relationship challenges in his life; and to identify strategies to help through various life changes and transitions related to his upcoming move to another job located back in the United States. Mr. C. indicates Applicant has made moderate progress. In August 2023, Dr. J.B.C., a licensed psychologist, diagnosed his condition as major depressive disorder, recurrent, in full remission.

AG ¶ 29(c) is established. Dr. M.L., the licensed clinical psychologist hired by the DOD, concluded that Applicant's condition was under control, but she could not give him a favorable prognosis without Applicant attending therapy to help manage stressors in his environment. Applicant is now actively attending therapy.

AG ¶ 29(d) applies. While Applicant is aware he will always need to take steps to manage his depression, the primary factor contributing to his instability in 2017 was the breakup of his marriage and subsequent divorce. He has been divorced for over five years and no longer has contact with his wife. Throughout this process, he has been honest about his mental health and interested in getting better. He attended counseling for a period of two years and took anti-depressant and anti-anxiety medications until he no longer needed it. In 2021, he accepted a job overseas and has created a new life for himself. He is stable and is active in his community.

AG ¶ 29(e) applies. Aside from the evidence presented by Applicant showing he has taken steps to improve his outlook on life, he was recently evaluated by Dr. J.B.C, a licensed psychologist, on August 28, 2023. After the evaluation, Dr. J.B.C. concluded that based on past medical and current data, Applicant qualifies for a diagnosis of major depressive order, recurrent, in full remission. He does not present any conditions at this time that could pose a significant risk to his judgment, reliability or trustworthiness. Dr. J.B.C. notes Applicant has gained a great deal of insight into what precipitates his depressive episodes. He was actively attending psychotherapy and understood the importance of therapy.

Over the past five years, Applicant has sought help for mental health issues. He followed the advice of his therapists on how to cope with future issues. He exercises on a regular basis, attends church on a regular basis, plays on a baseball team, and recently entered into a new relationship. He has not encountered a major depressive episode or suicidal ideation in over five years. There is no indication of a current problem.

### **Whole-Person Concept**

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guideline I in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I have considered Applicant's honorable military service, to include his deployment to Iraq. I considered the favorable testimonials from his current supervisor and his childhood friend. He was candid and sincere at the hearing. He demonstrated during his testimony that he is aware of his problems with depression and has taken steps to cope with his depression and the daily issues and challenges of life.

While not alleged in the SOR, I considered the past counselings Applicant received while on active duty and while working in a previous job under the whole-person. I do not believe these past incidents have security significance. Applicant disclosed these counselings during his security clearance background investigation. He learned from them and has not had any on-the-job counselings since 2018.

Since his divorce, Applicant has moved on and has taken steps to be more involved with others and is highly thought of by his current supervisor. He has done the work to develop coping skills when he encounters situations that cause him anxiety. He has not had a serious depressive episode since 2017. I have no questions about his reliability and trustworthiness.

After weighing the disqualifying and mitigating conditions under Guideline I and evaluating all the evidence in the context of the whole person, I conclude Applicant mitigated the security concerns raised under Psychological Conditions.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline I (Psychological Conditions): FOR APPLICANT

Subparagraphs 1.a-1.d:

For Applicant

## **Conclusion**

I conclude that it is clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is granted.

Erin C. Hogan  
Administrative Judge