



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



In the matter of: )  
)  
) ISCR Case No. 23-00094  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John Lynch, Esq., Department Counsel  
For Applicant: Ryan Nerney, Esq.

12/13/2023

**Decision**

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines H (drug involvement and substance misuse) and E (personal conduct) are mitigated. Eligibility for access to classified information is granted.

**Statement of the Case**

On August 5, 2022, Applicant completed and signed an Electronic Questionnaires for Investigations Processing (e-QIP) or security clearance application (SCA). (Government Exhibit (GE) 1) On March 13, 2023, the Defense Counterintelligence and Security Agency (DCSA) Consolidated Adjudication Services (CAS) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA CAS did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Specifically, the SOR set forth security concerns arising under Guidelines H and E. (HE 2) On May 8, 2023, Applicant provided a response to the SOR and requested a hearing. (HE 3) On June 28, 2023, Department Counsel was ready to proceed.

On July 11, 2023, the case was assigned to me. On July 25, 2023, the Defense Office of Hearings and Appeals (DOHA) issued a notice, setting the hearing for September 11, 2023. (HE 1) The hearing was held as scheduled.

Department Counsel offered four exhibits into evidence; and Applicant offered 20 exhibits into evidence. (Transcript (Tr.) 20-22; GE 1-GE 4; Applicant Exhibit (AE) A-AE T) There were no objections, and I admitted all proffered exhibits into evidence. (Tr. 20-22) On September 22, 2023, DOHA received a transcript of the hearing.

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

### **Findings of Fact**

In Applicant's SOR response, he admitted the SOR allegations in ¶¶ 1.a, 2.a, and 2.b. (HE 3) He also provided mitigating information. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 40-year-old staff electrical engineer who has worked for his current employer, a defense contractor, for five years. (Tr. 30, 32; AE H) In 2006, he received a bachelor's degree. (Tr. 31; AE C) In 2008, he was awarded a master's degree in electrical engineering. (Tr. 31; AE C) He has been married for 14 years, and his two children are four years old and eight years old. (Tr. 31-32) He has not served in the military. (Tr. 32) He has held a security clearance for eight years. (Tr. 33) His resume provides a detailed description of his professional accomplishments. (AE N)

### **Drug Involvement and Substance Misuse and Personal Conduct**

SOR ¶ 2.b alleges on at least three occasions in 2011 and 2012, Applicant stole his mother's or his father's Vicodin (hydrocodone) and then used the medication. In 2011, Applicant had two surgeries. (Tr. 43) He was prescribed hydrocodone for pain after both surgeries. (Tr. 43) In 2011 or 2012, he took three hydrocodone pills from an old bottle in the bathroom. (Tr. 43) The pills were prescribed for his father. (Tr. 43) He used the three hydrocodone pills on three occasions in 2011 or 2012. (Tr. 43) He took the three pills because he was coming off of his prescription for hydrocodone, and he believed he would feel better. (Tr. 44) He had a valid prescription for hydrocodone on the first two occasions in which he used his father's prescription, and his father's prescription was at a lower dosage than his own prescription. (Tr. 44) He did not ask for his father's permission because he knew what he was doing was wrong, and he knew he would feel ashamed. (Tr. 45) He rationalized that he was borrowing the pills, and then later after he took the pills, he elected not to tell his father. He took the third pill after his prescription expired because he was feeling a "bit sluggish" and wanted to feel better. (Tr. 46)

In 2016 and 2017, Applicant was prescribed hydrocodone after two surgeries. (Tr. 46) He complied with the terms of those prescriptions. (Tr. 47) On September 3, 2018, he completed an SCA, which asked two questions relevant to his Vicodin use: (1) "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?"; and "In the last seven years, have you intentionally engaged in the misuse of prescription drugs, regardless of whether or not the drugs were prescribed for you or someone else?" He answered, "No," to both questions. (GE 4 at 45) He failed to disclose any misuse of Vicodin on this SCA. (Tr. 41) Falsification of his 2018 SCA was not alleged in the SOR.

SOR ¶ 1.a alleges, and Applicant admitted, in about October 2020, while granted access to classified information, he used the prescription medication Vicodin (hydrocodone), that was not prescribed to him. (Tr. 34) SOR ¶ 2.a alleges and Applicant admitted in about October 2020, he stole his aunt's Vicodin (hydrocodone) and then used the Vicodin. (Tr. 35) In October 2020, he went to his aunt's residence to water her plants while she was away. (Tr. 55) He went to the bathroom and found a bottle of Vicodin. He took four Vicodin pills out of the bottle. (Tr. 35) He was not thinking about his security clearance when he used the Vicodin. (Tr. 34) He was depressed and anxious because of problems in his relationships with his spouse and parents, and due to isolation during the pandemic. (Tr. 35, 53) He wanted to take "some kind of mental health break." (Tr. 57) He used two Vicodin on two separate days. (Tr. 35-36, 56-57) He felt more relaxed; his anxiety was reduced; he felt a little dizzy; and he did not feel like doing anything after taking the Vicodin. (Tr. 56) He did not drive or go to work after taking the Vicodin. (Tr. 57-58) He was mostly teleworking during the pandemic. (Tr. 57) He acknowledged that he made a bad decision. (Tr. 35) He admitted what he did was wrong. (Tr. 37)

Every four or five weeks for the last three years, Applicant has met with a therapist. (Tr. 49; AE R) His support system has improved in the last three years. (Tr. 50) His relationships with his spouse and brother have improved. (Tr. 51) On April 3, 2023, a licensed social worker provided a chemical dependency assessment of Applicant. (AE A) The social worker said:

Even though [Applicant's] past use of pain medication is alarming and very serious in nature, given he has not used any opioids in the past 24 months, I have very few concerns about the limited scope of medication abuse he acknowledged. Having carefully considered the drug use he was willing to admit to and the nature by which this substance abuse has been revealed, there are no substance abuse-focused treatment intervention that I feel are essential for [Applicant's] situation at this time.

\* \* \*

Without any basis for a DSM-5 alcohol or substance use disorder, I have no treatment recommendations for [Applicant] at this time. (AE A at 2-3)

In March 2023, Applicant told his aunt about taking her Vicodin pills. (Tr. 36-37) She did not notice the pills were missing. (Tr. 38) She was very gracious about his theft

of her Vicodin, and she thanked him for telling her. (Tr. 38) He does not intend to use Vicodin in the future because he believed his Vicodin use was unhealthy and contrary to the best interests of his family and career. (Tr. 38)

Applicant has gone to counseling and concluded that his relationship with his parents is over. (Tr. 39) Applicant and his spouse disagree with his parents' political views. (Tr. 52) His parents tend to lecture their children about why their political beliefs are erroneous. (Tr. 52) Applicant is more mature now than he was in 2020. (Tr. 39) He relies on coping mechanisms he has learned and on his faith to "live every day with purpose." (Tr. 39-40)

In his August 5, 2022 SCA, Applicant said he did not misuse prescription drugs; however, in the comments he said he took four Vicodin pills from his aunt while housesitting. (GE 1) He indicated in his SCA that he did not believe this conduct raised a security concern. (GE 1) In his response to DOHA interrogatories, he disclosed that he took a few Vicodin pills from his parents in the second half of 2011 and the first three months of 2012. (GE 2)

The reason Applicant answered, "No," on his SCA was because he was in denial about the seriousness of his misuse of Vicodin. (Tr. 41; GE 2 at 8) However, he wanted to have a clean conscience and elected to disclose the misuse of the Vicodin on his SCA. (Tr. 41)

On March 22, 2023, Applicant provided a statement in which he promised to "never use or abuse non-prescribed drugs or any other drugs in the future." (AE B) He continued, "If I fail to adhere to this statement, I consent to automatic revocation of my security clearance." (AE B) He does not associate with users of illegal drugs. (GE 2 at 8)

On July 21, 2023, Applicant provided a hair sample, which tested negative for the presence of evidence of illegal drug use. (AE O) "Hair drug testing can typically detect drug use up to 90 days in the past" starting seven to ten days after use. (*Id.*)

On August 17, 2023, a psychologist evaluated Appellant's mental health. (AE S) The psychologist concluded that Applicant "does not present with evidence of behavioral or personality patterns, or mental health conditions that could reasonably degrade his reliability, trustworthiness, or judgment in the context of protecting classified information and/or working in a cleared setting." (AE S at 8)

Applicant has not violated the terms of any prescriptions for use of drugs or used someone else's prescription drugs after October 2020. (Tr. 47-48) He assured he will not violate the terms of prescription for use of drugs in the future because violating rules for taking prescription drugs made him feel terrible, and he wants to be able to provide for his family and avoid possible adverse health effects. (Tr. 47-49) He has never been arrested, and aside from the SOR allegations, he has never used an illegal drug after becoming an adult. (Tr. 59) He understands the responsibilities and obligations that come with holding a security clearance, and he considers himself to be an honest and trustworthy person of high moral character. (Tr. 53-54)

## Character Evidence

A coworker, who has known Applicant for five years, described him as highly qualified, diligent, mission oriented, honest, careful with classified information, professional, and an asset to his company. (Tr. 12-16; AE I) Applicant's supervisor has known Applicant for 30 months. (Tr. 23-24) He described Applicant as diligent, productive, honest, and trustworthy. (Tr. 25-28; AE I; AE L) They recommended that Applicant retain his security clearance. (Tr. 17, 29)

Applicant provided four written statements from coworkers who did not make verbal statements on his behalf at his hearing. (AE I) The general sense of their letters is that Applicant is professional, productive, reliable, trustworthy, and responsible. (AE I)

Applicant received outstanding performance reviews. (AE L) He completed numerous continuing education and training courses, and he received certificates for achievements and for completion of the courses. (AE F; AE K; AE P; AE Q) He received cash awards, recognition awards, and recognition points for outstanding work on behalf of his employer. (AE G; AE J; AE M)

## Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no 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 applicant's 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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a

determination as to the loyalty of the applicant concerned.” See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant’s allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence 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. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

## **Analysis**

### **Drug Involvement and Substance Misuse**

AG ¶ 24 provides the security concern arising from drug involvement and substance misuse stating:

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

AG ¶ 25 provides conditions that could raise a security concern and may be disqualifying in this case:

- (a) any substance misuse (see above definition);
- (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.

The record establishes AG ¶¶ 25(a), 25(c), and 25(f). Additional discussion of the disqualifying conditions is in the mitigation section, *infra*.

AG ¶ 26 lists four conditions that could mitigate security concerns:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to: (1) disassociation from drug-using associates and contacts; (2) changing or avoiding the environment where drugs were used; and (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. *See Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the

applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” Directive, Enclosure 2, [App. A] ¶ 2(b).

Applicant admitted that he possessed and used hydrocodone under the brand name Vicodin without a prescription four times in the 2011 to 2012 time period and three times in October 2020. In his response to SOR ¶ 1.a, he admitted that he had access to classified information when he used hydrocodone, although he said he did not use hydrocodone at work.

Possession of a Schedule II controlled substance is a federal criminal offense. Schedules I, II, III, IV, and V, as referred to in the Controlled Substances Act, are contained in 21 U.S.C. § 812(c). Hydrocodone is a Schedule II controlled substance. See Drug Enforcement Administration listing. (GE 3) “Hydrocodone is an antitussive (cough suppressant) and narcotic analgesic agent for the treatment of moderate to moderately severe pain. . . . Hydrocodone is the most frequently prescribed opioid in the United States with more than 136.7 million prescriptions for hydrocodone-containing products dispensed 2013.” (*Id.*) “Hydrocodone is abused for its opioid effects. . . . As with most opiates, abuse of hydrocodone is associated with tolerance, dependence, and addiction.” (*Id.*)

Applicant’s decisions to repeatedly possess and use hydrocodone are an indication he lacks the qualities expected of those with access to national secrets. He admitted he used hydrocodone while having access to classified information in his SOR response.

Applicant failed to disclose his misuse of hydrocodone on his 2018 SCA because he did not believe it was important. He disclosed his misuse of hydrocodone on his August 5, 2022 SCA in the comments section. He evidently did not believe that taking a few hydrocodone pills from a relative constituted an important security problem because he had previously had his own hydrocodone prescriptions after surgeries. These two instances of poor judgment were not alleged in the SOR. In ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006), the Appeal Board listed five circumstances in which conduct not alleged in an SOR may be considered stating:

- (a) to assess an applicant’s credibility;
- (b) to evaluate an applicant’s evidence of extenuation, mitigation, or changed circumstances;
- (c) to consider whether an applicant has demonstrated successful rehabilitation;
- (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or
- (e) to provide evidence for whole person analysis under Directive Section 6.3.

*Id.* (citing ISCR Case No. 02-07218 at 3 (App. Bd. Mar. 15, 2004); ISCR Case No. 00-0633 at 3 (App. Bd. Oct. 24, 2003)). See *also* ISCR Case No. 12-09719 at 3 (App. Bd. Apr. 6, 2016) (citing ISCR Case No. 14-00151 at 3, n. 1 (App. Bd. Sept. 12, 2014); ISCR



Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006)). These non-SOR allegations will not be considered except for the five purposes listed above.

Applicant provided some important mitigating information. His most recent hydrocodone use was in October 2020, which is not recent, and there is no evidence of subsequent hydrocodone use. He provided evidence of actions taken to overcome his hydrocodone involvement. He attributed his hydrocodone misuse in October 2020 to depression, anxiety, the pandemic, and marital problems. He attended counseling which addressed his mental-health issues. He received a favorable recommendation from a psychologist and social worker. He provided 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. He does not associate with users of illegal drugs.

Applicant's explanations for not disclosing his misuse of hydrocodone on his 2018 SCA and failure to more fully disclose it on his 2022 SCA were that he did not believe it was important or a serious security concern. This explanation was sincere and candid but mistaken. He was not attempting to deceive or conceal his misuse of hydrocodone. He now recognizes that theft of hydrocodone and misuse of hydrocodone is a serious security concern. I believe he will scrupulously endeavor to disclose information requested by security officials in the future.

I am convinced Applicant's hydrocodone possession and use "happened under such circumstances that it is unlikely to recur." AG ¶ 26(a). His hydrocodone involvement does not "cast doubt on [his] current reliability, trustworthiness, [and] good judgment." (*Id.*) AG ¶¶ 26(a) and 26(b) apply. Guideline H security concerns are mitigated.

## **Personal Conduct**

AG ¶ 15 explains why personal conduct is a security concern stating:

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. . . .

AG ¶ 16 has two disqualifying conditions that are relevant in this case. AG ¶¶ 16(c) and 16(e)(1) read:

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

AG ¶¶ 16(d)(3) and 16(e)(1) apply to Applicant's theft of four hydrocodone pills from his father in 2011 or 2012 and three hydrocodone pills from his aunt in October 2020.

AG ¶ 17 includes five conditions which could mitigate personal conduct security concerns:

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

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

(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;

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

(f) the information was unsubstantiated or from a source of questionable reliability.

AG ¶¶ 17(c), 17(d), and 17(e) apply. The theft of hydrocodone, which most recently occurred in October 2020, is not recent. It occurred on two occasions, and "it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on [his] reliability, trustworthiness, [and] good judgment." AG ¶ 17(c). Applicant received therapy to address the underlying cause of his theft and misuse of hydrocodone. He disclosed his theft and misuse of hydrocodone to security officials, and his family. He is not vulnerable to exploitation, manipulation, or duress. Personal conduct security concerns are mitigated.

### **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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guidelines H and E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 40-year-old staff electrical engineer who has worked for his current employer, a defense contractor, for five years. In 2006, he received a bachelor's degree, and in 2008, he was awarded a master's degree in electrical engineering. He has held a security clearance for eight years. His resume provides a detailed description of his professional accomplishments.

Five coworkers and his supervisor lauded Applicant's contributions to his company. The general sense of their letters is that Applicant is professional, productive, reliable, trustworthy, and responsible. He received outstanding performance reviews. He completed numerous continuing education and training courses, and he received certificates for achievement and completion for completion of the courses. He received cash awards, recognition awards, and recognition points for outstanding work on behalf of his employer.

In 2011 or 2012, Applicant took four hydrocodone pills from his father's medicine bottle, and in October 2020, he took three hydrocodone pills from his aunt's medicine bottle. He consumed the seven hydrocodone pills that he took without permission. He failed to disclose the hydrocodone misuse on his 2018 SCA and to fully disclose it on his 2022 SCA. His decisions to repeatedly possess and use hydrocodone not prescribed to him is an indication he lacks the qualities expected of those with access to national secrets.

The mitigating information in the analysis sections, *supra*, is more persuasive. His most recent misuses of hydrocodone in October 2020 are not recent. The only evidence of his hydrocodone misuse was from Applicant's disclosures. I am convinced he will not misuse hydrocodone in the future. His theft of hydrocodone from family members and misuse of hydrocodone does not cast doubt on his current reliability, trustworthiness, and good judgment.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Applicant mitigated drug involvement and substance misuse, and personal conduct security concerns.

### **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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraphs 2.a and 2.b:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the interests of national security to grant or continue Applicant's eligibility for access to classified information. Eligibility for access to classified information is granted.

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Mark Harvey  
Administrative Judge