



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



|                                  |   |                        |
|----------------------------------|---|------------------------|
| In the matter of:                | ) |                        |
|                                  | ) |                        |
|                                  | ) | ISCR Case No. 22-01494 |
|                                  | ) |                        |
| Applicant for Security Clearance | ) |                        |

**Appearances**

For Government: Carroll J. Connelley, Esq., Department Counsel  
For Applicant: Martin P. Hogan, Esq.

02/28/2024

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**Decision**

\_\_\_\_\_

HALE, Charles C., Administrative Judge:

Applicant mitigated the psychological conditions security concerns. Eligibility for access to classified information is granted.

**Statement of the Case**

On October 27, 2022, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline I (psychological conditions). Applicant responded to the SOR on January 3, 2023, and requested a hearing before an administrative judge. The case was assigned to me on July 17, 2023.

The hearing was scheduled for August 29, 2023, and upon Applicant obtaining counsel was rescheduled for September 13, 2023. I convened the hearing as scheduled on September 13, 2023. Government Exhibits (GE) 1 through 5 were admitted in evidence without objection. Applicant testified and submitted Applicant's Exhibits (AE) A through F, which were attached to Applicant's answer to the SOR. AE G through AE K were timely submitted after the hearing and were admitted without objection. I have assigned these post-hearing AE submissions the next letters in order based on the last AE offered at the hearing and not as marked by Applicant's counsel. I received the transcript (Tr.) on September 22, 2023.

## Findings of Fact

### Background

Applicant is a 23-year-old employee of a defense contractor. She has worked for her employer since about August 2019. She is a highly regarded employee as evidenced by her manager's letter of support, positive feedback from her colleagues, evaluation comments, and employee statistics rating. (AE B; AE C; AE E; AE H.) Her employer has placed her in a position of responsibility handling sensitive applications, and she has received compliments from those her work supports. (Tr. at 74; GE 1; AE B; AE C.) In addition to her current employer, she recently has started working again for her father's company, which she reported this work to her security team. She also worked for her father in high school. (Tr. at 73.)

Applicant graduated high school in June 2019 with a 4.2 grade point average and an early college scholar agreement. After graduating high school, she attended community college until October 2019. (GE 1; AE G.) She married in April 2020 at age 19. The couple lived in a small one-bedroom apartment during COVID. She testified she experienced emotional abuse and some physical abuse during the marriage, which was very stressful for Applicant. She separated from her husband in early 2022, and their divorce was finalized in the Spring of 2023 (Tr. at 20-21; GE 1.)

### Mental Health Treatment

Applicant first sought mental health treatment in about November 2020 after her suicide attempt. (SOR ¶ 1.a) As a youth she suffered from mental health issues triggered by a harsh home environment and being sexually assaulted as an early teen. (GE at 32-33.) She experienced suicidal ideation since age seven and has attempted suicide approximately 20 to 30 times. (SOR ¶ 1.b) Given her home environment she did not have the support from her family going through these events as a child. (Tr. at 39.) It was not until November 2020 after she was hospitalized for five days after her suicide attempt that she first began mental health treatment. The COVID pandemic made it especially challenging to find a care provider accepting new patients. In February 2021 she started treatment with X. (Tr. at 25-26; 41.) She had to decline the partial hospitalization program from the hospital because she did not have the sick leave and she had to work in order for her to not lose her apartment.

Applicant diligently sought to maintain a treatment plan while continuing to work and deal with health insurance coverage and costs. Between November 2020 and February 2021, during COVID, she was searching for a mental health care provider, she continued to get medication from the hospital where she had been hospitalized. (Tr. 41.) She was looking for a therapist but schedules, therapy styles, and cost were constraints. (Tr. at 44.)

In February 2021, Applicant contacted the police because she did not feel safe at her home and was transported to a crisis center. Her husband was yelling at her and when things got tense her husband would block her from leaving the apartment. He physically held her to stop her from leaving their apartment. The only place she could go to get out of the situation was the bathroom where she could lock the door. She called 911. The police were concerned about the situation and sent her to the crisis center based on her past history,

but after speaking with the counselor there, they determined that her safety was not a concern. She was able to pay the bill for the crisis center. (Tr. at 46.) After she was able to get out of her relationship with her abusive husband, her life improved dramatically. While this personal situation was ongoing, she continued to work and excelled with her employer. (AE B; AE C; AE E; AE H.)

Applicant was treated at a behavioral services practice, hereafter PT, from February 2021 until February of 2022. (AE A.) At her final session with PT, she had her medication filled through June of 2022. (Tr. at 47.) She was able to maintain her medication until she started seeing Dr. B (counsel and the Applicant refer to a psychiatric nurse practitioner as Dr. B throughout the hearing) in approximately September 2022. Dr. B is a psychiatric nurse practitioner who specializes in treatment of adults and is able to provide medication management for mental health disorders. Because Applicant's situation had improved, she has not been seen as frequently by her care provider, now she has appointments generally 60 to 90 days for maintenance. (Tr. at 49.) For medications she uses a weekly organizer to track her medications. She dispenses everything into each day, so it is easy for her to remember, and she does not miss prescribed dosages. (Tr. at 64.)

Applicant testified she could barely afford rent alone and her medications, so additional inpatient therapy was not an option for her. Since January 2022, she has lived without roommates, partners, or any type of financial support from others. She has maintained all of her finances. She has been able to function and provide for herself. She mentioned in her psychological evaluation with the doctor from the DOD that the one thing holding her back from getting therapy was cost. (Tr. 43-44; AE D.)

Applicant credibly testified about her struggles and how they improved once she was separated from her husband. She acknowledged dealing with self-harm urges and passive suicidal ideations. Both of these issues stopped shortly after separating from her husband. She acknowledged living by herself for the first time took some adjusting. She explained her practice of using a journal to deal with her anxiety. In her journal she writes down her thoughts if she feels a panic attack coming on and then doing a follow up every 10, 15, 20 minutes to see how her mindset had improved. By going back and reading her notes and reflecting on them has enabled her to learn how to avoid the situation again. (Tr. at 52.) She started this practice while seeing PT. She has kept this journal since November 2020. She also participates in weekly art therapy, which she finds relaxing. (Tr. at 53.) She has had no incidents of self-harm since the June of 2021 cutting incident. The last time she had even passive suicidal ideations was a few months after she separated from her husband in February of 2022. (Tr. at 61.) Besides the prescribed activities, art therapy and writing, she does as much gardening as her apartment allows, as well as, cooking and cleaning to calm herself. She also maintains regular exercise schedule involving a combination of weightlifting, Pilates, and yoga. (Tr. at 68.)

As part of Applicant's treatment, she was prescribed a service animal, a cat, by a nurse practitioner at PT. The animal is certified but limited to her residence for emotional support. She has had the cat for two years. The animal's presence is very relaxing and comforting by its warmth and purring. She testified the cat is like the art therapy or journaling, which has helped her deal with her anxiety. (Tr. at 55, 56.)

Applicant now has support from her family. Her parents live locally, and she normally visits her parents every weekend. She also started working parttime again with her father. She sees her sisters a little less, approximately a couple times a month. She described issues with her older sister growing up that have been resolved so that they have a “perfectly fine relationship.” (Tr. at 54.) Besides family and work she sees some friends outside of work occasionally. (Tr. at 64.)

Applicant relies on Dr. B’s December 2022 assessment. Dr. B met with her in the fall of 2022 and reviewed Applicant’s file. In addition to the assessment, Dr. B continued her medication regime she had been on since PT. (Tr. at 58.) The coping mechanisms have helped her with her anxiety so that she has not taken that medication in the past year. (Tr. at 58.) In 2020, she did not have a good support network, she has worked on becoming more involved and now has a good support network and has a treatment program, which includes medication management for mental health disorders. (Tr. at 37, 49 76; AE F.)

### **DOD Psychological Evaluation - June 2022**

The DOD requested that Applicant undergo a psychological evaluation. The evaluation was conducted on June 6, 2022, by a licensed psychologist (hereinafter referred to as psychologist or DOD psychologist) who was contracted from private practice by the DOD. The whole appointment lasted for approximately an hour to an hour and a half. (Tr. at 68.) A report of the evaluation was prepared on June 22, 2022. (GE 3.)

The psychologist’s evaluation included a review of background information, including mental health treatment records provided by the DOD. Applicant’s most recent SCA. Additional data was collected via clinical interview and observations and administration of the Personality Assessment Inventory (PAI) and the post-traumatic stress disorder (PTSD) Checklist for the Diagnostic and Statistical Manual for Mental Health (DSM-5), PCL-5. (GE 3 at 1.) At the evaluation the psychologist described Applicant’s thought content as normal with no psychotic features noted. She was forthcoming, respectful, and cooperative during the evaluation. The psychologist described Applicant’s insight as intact and her judgment as good and that she answered all questions asked of her. The psychologist noted her responses to questions were adequate and informative and she did not appear to be making attempts at deception during the evaluation. (GE 3 at 4.) During the testing part of the evaluation the psychologist noted there was no evidence to suggest that Applicant was trying to portray herself as being relatively free of common shortcomings or minor faults to portray herself in a more negative or pathological light than the clinical picture would warrant. (GE 3 at 5.) The psychologist diagnosed her “with Post-traumatic-stress disorder, chronic, and Major Depressive Disorder, Recurrent, conditions that could pose a significant risk to [her] judgment, reliability, trustworthiness, and ability to protect classified information. Due to a lack of well-established coping skills and a lack of medical opinion from [her] current provider, [her] prognosis is guarded.” (SOR ¶ 1.c.)

Consistent with her own medical records Applicant reported to the DOD several suicide attempts while she was a child but not reported to family until the November 2020 attempt, which resulted in her hospitalization. She described the harsh family life and relationship with her mother and older sister when she was a preteen. (GE 3 at 4.)

The DOD psychologist noted Applicant has a number of supportive relationships to serve as a buffer to her situational stress. These relationships provide a relatively intact social support system and are a favorable sign for future adjustment. (GE 3 at 6.)

The DOD psychologist noted Applicant's past psychiatric difficulties cannot be a basis for vulnerability to blackmail, pressure, or coercion because her history is well known to others in her life. The psychologist noted Applicant appeared to be complying with her current treatment recommendations and had acknowledged symptoms of depression, anxiety, and noted that she has continued to experience passive symptoms of suicidal thoughts. The psychologist noted that due to a lack of information, she did not have objective information concerning the subject's treatment progress over the past year and her prognosis in terms of risk recurrence. (GE 3 at 7.)

The record shows Applicant was generally consistent in her clinical interviews and self-report measures concerning her history of sexual abuse, suicidal ideations, suicide attempts, and self-harm. After separating from her husband, she is no longer having passive suicidal ideations or self-harm urges and no suicide attempts since the November 2020 incident. (Tr. at 50, 51-52; 53; AE A at 7.) Her current care provider signed the DOD form affirming that she does not have a condition that could impair her judgment, reliability, or trustworthiness. (AE F.)

### **Policies**

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

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

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish

controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

### **Analysis Guideline I: Psychological Conditions**

The security concern for psychological conditions is set out in AG ¶ 27:

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

AG ¶ 28 provides conditions that could raise psychological conditions security concerns. The following are potentially applicable:

- (a) behavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and
- (c) voluntary or involuntary inpatient treatment.

AG ¶¶ 28(a)-(c) have been established by the facts of this case.

AG ¶ 29 provides conditions that could mitigate psychological conditions security concerns. The following are potentially applicable:

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

(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;

(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;

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

(e) there is no indication of a current problem.

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 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

AG ¶ 29(a) is partially applicable. Applicant after her 2020 suicide attempt sought out and was responsive to treatment for her major depressive disorder and suicidal ideations in 2020. She has a regime for taking her medication and attended mostly weekly, but sometimes bi-weekly, counseling sessions with a therapist. She implemented coping mechanisms from her therapist, such as a service animal, journaling, and art therapy. She now exercises regularly; is involved with her family; and is more engaged with others. Her conditions are readily controllable with treatment, and Applicant has demonstrated ongoing and consistent compliance with her treatment plan.

AG ¶ 29(b) is partially applicable. While Applicant has had difficulty with obtaining treatment because of medical insurance, availability of mental health providers, and her work obligations, she still followed the recommended actions that would help her cope and deal with stress. Applicant has demonstrated ongoing and consistent compliance with her treatment plan.

AG ¶ 29(c) is not established. The DOD psychologist diagnosed her “with Post-traumatic-stress disorder, chronic, and Major Depressive Disorder, Recurrent, conditions that could pose a significant risk to [her] judgment, reliability, trustworthiness, and ability to protect classified information. Due to a lack of well-established coping skills and a lack of medical opinion from [her] current provider, [her] prognosis is guarded.” (SOR ¶ 1.c.) Although she is now attending therapy and Dr. B certified Applicant does not have a condition that could impair her judgment, reliability, or trustworthiness, there is no evidence Dr. B is employed by, or acceptable to and approved by, the U.S. Government.

AG ¶ 29(d) does not apply. Appellant was diagnosed with PTSD, chronic, and Major Depressive Disorder, Recurrent. There is no evidence these conditions are temporary.

AG ¶ 29(e) applies. ISCR Case No. 20-02097 at 4 (App. Bd. Feb. 13, 2024) the Appeal Board indicated lay statements about work performance could potentially establish mitigation under AG ¶ 29(e). Applicant is aware what steps, based on her childhood trauma, she needs to take to manage her depression, which was compounded by her difficult marriage at a young age and was further exacerbated by the COVID pandemic living conditions. She has been divorced for almost two years and no longer has contact with her husband. Her personal life is stable, and she has family support. Throughout this process, she has been honest about her mental health and interested in getting better. She has been attending counseling sessions for the last two years and takes her anti-depressant and anti-anxiety medications. She had the foresight to make sure she had a sufficient supply when she changed providers. Applicant’s work and personal life after establishing her treatment plan have shown she has learned to deal with her health concerns such that there is no indication of a current problem. She has shown the requisite coping skills and her current medical care provider has stated she does not have a condition that could impair her trustworthiness.

Applicant successfully mitigated the psychological conditions security concerns.

### **Whole-Person Concept**

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

- (1) The nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual’s age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation

and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guideline I in my whole-person analysis. Applicant has moved forward since her divorce. She has taken steps to be more involved with others and obtained a support animal. Her work is highly thought of by her current supervisor and those she supports. She has done the work to develop coping skills when she encounters situations that cause her anxiety. I have no concerns about her 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 the Psychological Conditions Guideline.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

|                           |               |
|---------------------------|---------------|
| Paragraph 1, Guideline I: | For Applicant |
| Subparagraphs 1.a-1.c:    | For Applicant |

### **Conclusion**

It is clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

Charles C. Hale  
Administrative Judge