



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



In the matter of:)
)
 [Redacted]) ISCR Case No. 23-00331
)
 Applicant for Security Clearance)

Appearances

For Government: Nicholas Temple, Esq., Department Counsel
For Applicant: *Pro se*

08/14/2024

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines H (Drug Involvement and Substance Misuse) and E (Personal Conduct). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted an electronic questionnaire for investigations processing (e-QIP) on April 25, 2022. On May 10, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H and E. The DCSA CAS acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (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), which became effective on June 8, 2017.

Applicant answered the SOR on May 16, 2023, and requested a hearing before an administrative judge. Department Counsel was ready to proceed on July 5, 2023, and the case was assigned to an administrative judge. On April 2, 2024, the Defense Office of Hearings and Appeals (DOHA) notified Applicant that the hearing was scheduled to be conducted by video teleconference on April 22, 2024. The administrative judge convened the hearing as scheduled. The administrative judge continued the hearing because it appeared that Applicant had not received the government exhibits. The transcript of this abbreviated session was received on May 2, 2024, and it is attached to the record as Hearing Exhibit I.

The case was reassigned to me on May 2, 2024. On May 17, 2024, DOHA notified Applicant that the case was scheduled to be conducted by video teleconference on June 6, 2024. Applicant indicated that he wanted an in-person hearing, and the hearing notice was amended on June 3, 2024, to provide for an in-person hearing on the same date and at the same time. I convened the hearing as scheduled. Government Exhibits (GX) 1 through 12 were admitted in evidence without objection. Department Counsel requested that I take administrative notice of a fact sheet pertaining to the timeline for detectability of tetrahydrocannabinol (THC) metabolites. (GX 13) Applicant did not object, and I took administrative notice as requested. Applicant testified, presented the testimony of one witness, and submitted Applicant's Exhibits (AX) A through F, which were admitted without objection. I kept the record open until June 6, 2024, to enable Applicant to submit additional evidence. He submitted AX G through K, which were admitted without objection. DOHA received the transcript (Tr.) on June 20, 2024.

Findings of Fact

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.b, 2.b-2.f, 2.h-2.l, and 2.n, with explanations. He denied the allegations in SOR ¶ 1.a, 1.c, 2.g, and 2.m. He did not admit or deny SOR ¶ 2.a. His admissions are incorporated in my findings of fact.

Applicant is a 38-year-old armed security officer employed by a federal contractor since April 2022. He has a long and checkered employment history. His first employment as federal contractor employee was as a mail clerk from May 2009 to March 2010. He was employed by a state government as a passport specialist from July 2010 to May 2011, when he left because of illness. He was employed as an armed security officer from February 2009 to October 2013, when his contract ended.¹ He was employed by a federal contractor as a research analyst from April 2014 to February 2015, when his employment ended because the processing of his application for the required clearance was not completed. He was unemployed from February to November 2015. He voluntarily left two jobs between February 2017 and September 2018, looking for better jobs. He worked for a state contractor as an administrative support technician from September

¹ This period employment overlaps his employment as a mail clerk from May 2009 to March 2020 and as a passport specialist from July 2020 to May 2011. It is not clear whether he held two full-time jobs simultaneously or the dates listed in his e-QIP are incorrect.

2018 to January 2019 when his company lost its contract. He was unemployed from January to June 2019. He worked for a federal contractor as a security officer from August to December 2020. He worked for a federal contractor in an access control position from December 2020 to March 2021, when he left by mutual agreement after a coworker reported that she was afraid to work with him. He worked for a non-government employer as an information technology technician from November to December 2021, when he was fired. In his e-QIP, he stated that he was fired for no reason. (GX 1 at 13). He began working for his current employer as an armed security officer in April 2022.

Applicant graduated from high school in June 2004. He attended college from May 2004 to December 2005, June to August 2015, and March and April 2018, but he has not received a degree.

In connection with Applicant's employment by federal contractors, he submitted e-QIPs in January 2009 (GX 4), April 2014 (GX 3), September 2018 (GX 2), and April 2022 (GX 1) He received his first security clearance in 2009. (GX 5 at 29)

SOR ¶ 1.a alleges that Applicant used marijuana on various occasions "at least approximately May 2017 and November 2020." Applicant denied this allegation in his answer to the SOR, admitting that he used marijuana in June 2017 and asserting that he has not used or possessed any illegal substance since that date.

SOR ¶ 1.b alleges that Applicant was charged with possession of marijuana in approximately June 2017. He admitted this allegation, explaining that he possessed a cigar containing marijuana. He received deferred disposition and was placed on supervised probation for 12 months. He completed the period of supervised probation, during which he was subjected to random drug testing on five occasions, and the charges were dismissed. (Tr. 20-21; GX 8 at 6) When Applicant was interviewed by a security investigator in January 2019, he told the investigator that he used marijuana for relaxation and that he had used it once a day for about 30 days in April 2017. (GX 5 at 21)

SOR ¶ 1.c alleges that in November 2020, Applicant failed a urinalysis test by testing positive for marijuana. He denied this allegation, asserting that his supervisor told him that the urinalysis test results were inconclusive. However, the laboratory report reflects that the results were positive for marijuana metabolites, and the letter of termination from his employer states that the results were positive. (GX 6; AX H at 2) Applicant obtained another urinalysis test at his own expense in December 2020, which tested negative for marijuana. (AX K) I have taken administrative notice that a single use of marijuana can be detected by marijuana use for up to three days, heavy daily marijuana use can be detected by urinalysis for up to ten days, and chronic heavy use can be detected for up to 30 days. Because there is no evidence that Applicant was a heavy user of marijuana in November 2020, his negative test results in December 2020 do not refute the positive results in November 2020. Applicant testified that he resigned from his job because of the urinalysis results, but he was rehired by the same employer a year later. (Tr. 24)

SOR ¶ 2.a cross-alleges the conduct in SOR ¶¶ 1.a-1.c. Applicant did not admit or deny this allegation.

SOR ¶ 2.b alleges that in June 2008, Applicant was charged with assault on a family member and destruction of property. He partially admitted this allegation in his answer to the SOR. He admitted that he had an argument with his cohabitant about unpaid bills, and that he destroyed some of her clothing in a closet. (AX A) At the hearing, he denied that he assaulted his cohabitant, but he admitted that he destroyed some clothing that he had purchased for her by pouring bleach on it. (Tr. 26, 86) The charges were *nolle prosequi*. (GX 8 at 4).

SOR ¶ 2.c alleges that Applicant was charged with assault on a family member in January 2011. He admitted this allegation but denied putting his hands on the alleged victim, with whom he was living at the time. At the hearing, he testified that he had an argument with her because she caught him talking on the phone with another woman he was dating. (Tr. 27) The charges were *nolle prosequi*. (GX 8 at 4)

SOR ¶ 2.d alleges that Applicant falsified his April 2014 e-QIP by deliberately failing to disclose that he was terminated from a job as a mail clerk on a military installation for giving mail to an unauthorized person. In his e-QIP, he stated that he left this job because the contract ended. (GX 3 at 16) He gave the same explanation in his 2018 e-QIP and 2022 E-QIP. (GX 1 at 29; GX 2 at 23) In his answer to the SOR, he admitted being terminated for not delivering the mail as required. (AX A) At the hearing, he testified that he did not deliver the mail because he was informed that someone was coming to get the incoming mail and deliver it. He testified that he was later invited to return to the same job but did not accept the offer because he had accepted another job. (Tr. 28-29)

SOR ¶ 2.e alleges that Applicant falsified his April 2014 e-QIP by deliberately failing to disclose that he was charged with assault on a family member and destruction of property in June 2008. In his answer to the SOR, he stated that he thought being “charged” meant being convicted. At the hearing, he testified that he did not disclose the charges because he was not convicted. (Tr. 29)

SOR ¶ 2.f alleges that in October 2014, Applicant was charged with felony abduction by force, obstruction of communication through wireless means to prevent help, and assault on a family member. At the hearing, he admitted that he was charged but denied the basis for the charge. He stated that he and a girlfriend had an angry argument when another girlfriend called him on his cellphone. (Tr. 30-32) He testified that he was arrested and confined for a week. (Tr. 108) On January 14, 2015, the charges were *nolle prosequi*. (GX 8 at 5; AX B)

SOR ¶ 2.g alleges that in March 2015, Applicant was charged with two counts of violating a protective order, convicted of one count, and sentenced to one day of confinement. In his answer to the SOR, he denied this allegation. At the hearing, he admitted that his girlfriend obtained a protective order against him. (Tr. 33-34) Court

records reflect that he was charged, convicted, and sentenced as alleged in the SOR. (GX 8 at 6)

SOR ¶ 2.h alleges that Applicant falsified his September 2018 e-QIP by stating that he left a job because the contract ended, when in fact he was terminated for giving mail to an unauthorized person. In his answer to the SOR, he admitted this allegation, stating that he did not read his answer carefully.

SOR ¶ 2.i alleges that Applicant falsified his September 2018 e-QIP by failing to disclose the conduct alleged in SOR ¶¶ 1.b, 2.f, and 1.g, all of which occurred within the last seven years before the date of the e-QIP. In his answer to the SOR and at the hearing, he admitted the allegation but explained that he thought more than seven years had elapsed and that he had forgotten about the marijuana charge.

SOR ¶ 2.j alleges that Applicant falsified his September 2018 e-QIP by failing to disclose his use of marijuana in May or June 2017. In his answer to the SOR, he admitted the allegation, stating that he had forgotten about the marijuana charge. During cross-examination at the hearing, he repeated his assertion that he had forgotten about the marijuana charge. (Tr. 71-84)

SOR ¶ 2.k alleges that in March 2021, Applicant was terminated from employment after another employee reported that she was scared to work with him. He admitted the allegation in his answer to the SOR, and he explained that he removed his mask during COVID-19 while discussing a work problem, and he kept repeating himself as he attempted to complete a task. He was fired without an opportunity to explain himself. At the hearing, he admitted that the fellow employee told him that she was scared to work with him and accused him of being lazy. (Tr. 37-39)

SOR ¶ 2.l alleges that Applicant falsified his April 2022 e-QIP by admitting his marijuana use in May 2017 but not disclosing his marijuana use in November 2020. In his answer to the SOR, he stated that he did not use marijuana in November 2020. At the hearing, he denied that he used marijuana in November 2020, notwithstanding the positive urinalysis results. (Tr. 41)

SOR ¶ 2.m alleges that Applicant falsified material facts during a security interview in October 2022 by claiming that he used marijuana on only two occasions in May 2017. In his answer to the SOR, he denied this allegation. The summary of an earlier security interview in January 2019 reflects that Applicant volunteered the information about his marijuana use and stated that he used it one time per day for about thirty days. (GX 5 at 21) At the hearing, he denied telling the investigator that he used marijuana 30 times. (Tr. 42-44) However, when he responded to DOHA interrogatories in March 2023 and was asked to authenticate the record of his security January 2019 interview, he pointed out some errors within the summary but did not challenge the accuracy of the part of the summary reflecting his admission that he used it once a day for about 30 days in May 2017. (GX 5 at 36) At the hearing, he asserted that he did not read the summary of the January 2019 interview. (Tr. 58)

SOR ¶ 2.n alleges that Applicant falsified material facts in a response to interrogatories in March 2023 by failing to disclose his marijuana use in November 2020. In his response, he admitted his disclosure of marijuana use in June 2017 but denied using marijuana in November 2020.

Applicant's pastor testified as a character witness for Applicant. The pastor has a degree in radiation therapy oncology and a graduate degree in public administration. He has been a minister for about 25 years, and he has known Applicant for about eight years. He was not aware of the allegations in the SOR. For the past six years, he has been mentoring Applicant in life management, character, and leadership development. He believes that Applicant is very committed to his family, his fiancée, and his church. He believes that Applicant is like many people he has seen who have had a "sordid past" but now want to make a significant change in their lives. He testified that Applicant has been very transparent and open, and has accepted correction, rebuke, and guidance. (Tr. 133-36)

Six of Applicant's current coworkers submitted statements attesting to his responsiveness, technical skill, hard work, and dedication. (AX D, E, and F) His current security officer submitted a letter attesting to his integrity, reliability, good character, positive attitude, attention to detail, sense of humor, and kindness. (AX G)

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* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019) It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. 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* at 531.

Analysis

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may

lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *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.

SOR ¶ 1.b, alleging possession of marijuana in June 2017, duplicates the allegation in SOR ¶ 1.a, alleging use of marijuana between May 2017 and November 2020. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. See ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). Accordingly, I have resolved SOR ¶ 1.b for Applicant.

The following disqualifying conditions under this guideline are potentially applicable:

AG ¶ 25(a): any substance misuse (see above definition);

AG ¶ 25(b): testing positive for an illegal drug;

AG ¶ 25(c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and.

AG ¶ 25(f): any illegal drug use while granted access to classified information or holding a sensitive position.

Applicant admitted that he used marijuana in June 2017. He denied using it in November 2020, even though he tested positive after undergoing urinalysis testing. His admission and the evidence submitted at the hearing are sufficient to establish AG ¶¶ 25(a), 25(b), and 25(c).

Applicant's drug use in June 2017 occurred after he received a security clearance. However, there is no evidence that he had actual access to classified information. To the contrary, he was terminated from a position as a research analyst for a federal agency because he lacked required clearance. However, the record reflects that he testified positive for marijuana use in November 2020 while he was an armed security officer, which was a sensitive position. Nevertheless, Applicant's drug use while holding a sensitive position was not alleged in the SOR and may not be an independent basis for revoking his security clearance. Therefore, I have considered it only for the limited purposes of considering Applicant's credibility; to evaluate his evidence of mitigation, and in my whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006).

The following mitigating condition is potentially applicable:

AG ¶ 26(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.

This mitigating condition is not established. Applicant used marijuana frequently in 2017. He was not truthful during the clearance adjudication process and was not truthful at the hearing. He has a long history of irresponsible behavior. Although his most recent marijuana use was more than three years ago, I am not satisfied that it will not recur if the pressure of keeping his security clearance is removed.

Guideline E, Personal Conduct

The security concern under this guideline is set out in AG ¶ 15:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

SOR ¶ 2.a, cross-alleging the conduct in SOR ¶¶ 1.a-1.c, is established by the evidence establishing those allegations. The destruction of property in SOR ¶ 2.b is established by Applicant's admission that he poured bleach on his girlfriend's clothing, but the other criminal activity in SOR ¶¶ 2.b, 2.c, and 2.f, is not established. Applicant admitted having arguments with his girlfriends caused by his boorish practice of talking on the cellphone with one girlfriend in the presence of another girlfriend. However, there is no evidence that he assaulted, abducted or obstructed the wireless communications of any of them. All the complaints by girlfriends were disposed of by *nolle prosequi*.

The complaint of Applicant's coworker, alleged in SOR ¶ 2.k, that she was afraid to work with Applicant, was not supported by any evidence of conduct causing her fear. However, the falsifications alleged in SOR ¶¶ 2.d, 2.e, 2.g, 2.h-1.j, and 2.l-1.n are established by Applicant's admissions and the evidence submitted at the hearing..

The following disqualifying conditions under this guideline are potentially applicable:

AG ¶16(a): deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;

AG ¶16(b): deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;

AG ¶ 16(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

AG ¶ 16(e): personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes . . . engaging in activities which, if known, could affect the person's personal, professional, or community standing.

AG ¶ 16(a) is established. Applicant falsified his 2014 e-QIP regarding the basis for his termination of employment in March 2010, as alleged in SOR ¶ 2.d, and repeated the same falsification in his 2018- e-QIP, as alleged in SOR ¶ 2.h. He failed to disclose his drug use in his 2018 and 2022 e-QIPs, as alleged in SOR ¶¶ 2.j and 2.i. This disqualifying condition is not established for the falsification alleged in SOR ¶ 2.e, alleging failure to disclose that he was charged, convicted, or sentenced for a crime in any court, because he was charged but not convicted of the offenses alleged in SOR ¶¶ 1.b, 2.b, 2.c, and 2.f, and his explanation that he misunderstood the term “charged” was credible. However, his explanation does not mitigate his failure to disclose his conviction and sentence for violating a protective order, alleged in SOR ¶ 2.g.

AG ¶ 16(b) is established. Applicant failed to disclose his November 2020 marijuana use during his security interview in October 2022 and his responses to interrogatories in March 2023.

AG ¶ 16(c) is established. Applicant’s conviction of violating a protective order, standing alone, would not support a revocation of his clearance, but when considered in combination with his record of marijuana use and multiple falsifications during the adjudication of his security clearance application, there is sufficient evidence of questionable judgment to establish this disqualifying condition.

AG ¶ 16(e) is established by Applicant’s violation of protective order and marijuana use, which adversely affect his professional and community standing.

The following mitigating conditions are potentially relevant:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17(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;

AG ¶ 17(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;

AG ¶ 17(f): the information was unsubstantiated or from a source of questionable reliability.

AG ¶ 17(a) is not established. Applicant made no efforts to correct his omissions before the hearing.

AG ¶ 17(c) is not established for Applicant's falsifications. Falsification if an e-QIP is a serious offense that undermines the integrity of the clearance adjudication process. His falsifications, alleged in SOR ¶¶ 2.d, 2.e, 2.h-2.j, and 2.l-2.n are not mitigated by the passage of time, because they reflect a continuing pattern of undermining the security clearance adjudication process. It is established for Applicant's destruction of property as alleged in SOR 2.b, which happened in 2008 and is mitigated by the passage of time. It is established for the violation of a protective order alleged in SOR ¶ 2.g, which occurred almost ten years ago and has not been repeated.

AG ¶ 17(f) is established for the conduct alleged in SOR ¶¶ 2.b, 2.c, 2.f, and 2.k, which were unsubstantiated.

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 Guidelines H and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions under those guidelines and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his drug involvement and personal conduct.

Formal Findings

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

Paragraph 1, Guideline H (Drug Involvement):	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	Against Applicant
Paragraph 2, Guideline E (Personal Conduct):	AGAINST APPLICANT
Subparagraphs 2.a-2.c:	For Applicant
Subparagraph 2.d:	Against Applicant
Subparagraphs 2.e and 2.g:	For Applicant
Subparagraphs 2.g-2.j:	Against Applicant
Subparagraph 2.k:	For Applicant
Subparagraphs 2.l-2.n:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge