



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



In the matter of:	)	
	)	
	)	ISCR Case No. 24-00389
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Jeff A. Nagel, Esq., Department Counsel  
For Applicant: *Pro se*

11/26/2024

---

**Decision**

---

LOUGHRAN, Edward W., Administrative Judge:

Applicant did not mitigate the security concerns under Guidelines E (personal conduct), F (financial considerations), and J (criminal conduct). Eligibility for access to classified information is denied.

**Statement of the Case**

On March 19, 2024, the Department of Defense (DoD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines F and J. Applicant submitted an undated response to the SOR and requested a hearing before an administrative judge. Department Counsel amended the SOR on April 26, 2024, by cross-alleging the criminal conduct allegations under Guideline E (personal conduct). Applicant responded to the amendment on May 16, 2024.

The case was assigned to me on April 30, 2024. The hearing convened as scheduled on July 10, 2024. Government Exhibits (GE) 1, 2, and 4 through 10 were admitted in evidence without objection. The objection to GE 3 was sustained. Applicant testified, but he did not submit any documentary evidence. After the hearing, he submitted an email with a link to a website. The email and a printed copy of the website are marked Applicant Exhibits (AE) A and B and admitted without objection.

## Findings of Fact

Applicant is a 55-year-old employee of a defense contractor. He has worked for his current employer since about April 2023. He previously held a security clearance for more than 20 years, with some breaks, but it apparently lapsed before he accepted his current job. He attended college for a period without earning a degree, and he attended a technical college and received multiple certifications. He married his current wife in 2020 after his first marriage ended in divorce in 2019. He has four adult children. (Tr. at 29, 66-67, 71-74; GE 1)

## Finances

Applicant bought a house in about 2006 at the height of the housing bubble. He paid about \$300,000, which he financed through what was apparently a 30-year mortgage. He also obtained another loan, which he described as a home equity line of credit (HELOC) or a second mortgage. In any event, it was apparently a secured loan. Credit reports show the conventional mortgage loan was taken out in May 2006, with a high credit of \$238,400. The last action on the account was July 2018, and it was reported that the loan was “closed foreclosure, collateral sold,” with a \$0 balance. The reports show the secondary loan was also taken out in May 2006, with an amount of \$59,600. The activity date on one report was May 2018 and February 2022 on the other. The account is listed as charged off, transferred to recovery, and dispute resolved reported by grantor. The June 2022 report listed the balance as \$76,396. The April 2023 report listed the balance as \$80,362 (SOR ¶ 1.a). (Tr. at 16-19, 22, 32; Applicant’s response to SOR; GE 1, 2, 9, 10)

Applicant stated that the house was voluntarily foreclosed because of his separation and divorce from his first wife. He had to move for his job, and she remained in the house without paying anything toward the loans. (Tr. at 18; Applicant’s response to SOR; GE 1)

Applicant believes he is not responsible for the loan because he let the primary and secondary lenders know that the house was going into foreclosure. He believes the creditor should have participated in the foreclosure. He stated the creditor improperly changed the loan, which was a secured loan, to an unsecured loan and just wanted their money. He felt that was an unlawful act, and he refuses to pay anything. Even though he received about \$60,000 from the creditor, most of which was never paid back, he does not feel like he benefitted “in any way” from the loan because he “put that money back into the house to try and fix it up and make it better.” He also stated that collections on the loan are barred by his state’s statute of limitations. (Tr. at 16-27, 32-39; Applicant’s response to SOR; GE 1)

Applicant stated that he assumed all the debt from his first marriage. He stated that the SOR debt was not addressed in their divorce, because the house was foreclosed before the divorce, and they assumed there was nothing else owed. Other than this debt, his finances are in order, with no other delinquent debts. (Tr. at 26-27, 78; GE 2, 9, 10)

## Criminal Conduct

The police responded to calls at Applicant's home several times from 2020 to 2022. Matters that were not alleged in the SOR will not be used for disqualification purposes, but may be used to assess Applicant's credibility, in the application of mitigating conditions, and in the whole-person analysis. The below information is from police reports, followed by Applicant's explanations.

Police responded to Applicant's home in May 2020. He reported that he and his wife had an argument, and she threw a pan of hot oil against the wall. She slapped him on the right shoulder, and he pushed her back. The argument continued. She pulled out a pistol, pointed it at his chest, and said, "if you hit me again, I'll kill you." He told her to shoot him. He then pushed the gun away, and she fired it without hitting him. Her mother and his daughter were present for some of the argument and provided mostly similar statements. They both indicated that Applicant's wife was intoxicated. Her mother saw them push each other. His daughter heard his wife say, "don't push me," and saw her stumble back. They both heard the shot but did not see who shot the pistol. His wife was arrested for aggravated assault with a deadly weapon, discharging a firearm in the city, and disorderly conduct. She was apparently convicted and placed on probation. (Tr. at 60; GE 8)

On December 31, 2020, Applicant's wife called the police complaining that he was assaulting her. He came on the line and stated that his wife was on probation for domestic violence, and it was she who was assaulting him. When police arrived at the house, there were boxes and clothing in the front yard, and the police heard what sounded like screaming coming from the house. She was borderline hysterical and reported that Applicant had choked her and wanted to kill her. (GE 8)

Applicant's daughter was present during part of the alleged assault. At some point, his wife went into his daughter's room. His daughter told her to leave, produced a knife, and told his wife that if she came close, she would stab her. Applicant intervened. He stated that his wife attacked him and bit his arm near the armpit and scratched his neck. He had a visible injury in those areas. He admitted that he choked his wife, but stated it was in self-defense. She indicated at one point that she thought she was going to jail because she violated probation. The police discovered that Applicant had a video camera in his home that recorded some of the events but was partially blocked by a Christmas tree. (GE 8) The officer described what he saw on the tape as follows:

- [Daughter, Applicant, and Wife] can be heard screaming.
- [Applicant] stands in front of [Daughter's] door in an apparent effort to keep [Wife] out.
- [Daughter] screams that she is going to stab [Wife].
- [Applicant] slaps and pushes [Wife] to get her away from [Daughter's] door.
- [Applicant] and [Daughter] are in [Daughter's] room while [Wife] is in the living room.
- [Wife] screams for them to leave.
- [Wife] forces her way into the bedroom.

- [Applicant] meets [Wife] near the doorway.
- [Applicant] is seen gesturing towards the upper and inner portion of his arm soon thereafter in the area where he had visible bruising. This may have been when [Wife] bit him, but it is not entirely clear.
- [Applicant] pushes [Wife] on to the bed.
- [Applicant] tells [Wife] not to threaten his child.
- [Wife] yells at them both to get out.
- Daughter exits her bedroom and then exits the residence out the front door.
- [Applicant] removes his jacket to show [Wife] where she bit him.
- [Applicant] moves towards the front door slightly and away from [Wife] but then appears to slap [Wife]. It was unclear if this was self-defense as the Christmas tree blocks the view of [Wife]'s actions.
- [Applicant] takes a few steps towards the door and [Wife] grabs him. [Applicant] pushes her off of him and towards the bed again.
- [Applicant] begins to walk through the doorway to the front yard and begins to close the door behind him. [Wife] grabs the door and prevents it from fully closing. The door opens again and [Applicant] comes back inside the residence.
- [Applicant] and [Wife] begin to engage physically again.
- [Wife] steps away from [Applicant] as her back is turned to him and she walks toward the kitchen.
- [Applicant] grabs [Wife] by the back of the neck and forces her down onto the bed. The two are blocked from the camera by the Christmas tree.
- A few seconds of silence passes and then it sounds as though [Wife] is gasping for air. [Wife]'s mother enters the living room area and appears to be making attempts to separate [Applicant] and [Wife].
- [Wife] yells "over what?" and grabs onto [Applicant]'s clothing again.
- [Applicant] gets [Wife] off of him and walks towards the kitchen to retrieve a new pair of glasses.
- [Wife] then begins throwing items out of the front door while repeatedly saying "You're going to choke me?"
- [Applicant] approaches [Wife] again, grabs her by the neck area and forces her onto the bed. The two appear to wrestle before [Applicant] stands up and walks away into the kitchen. (GE 8)

The police felt that there might be probable cause to arrest Applicant's wife for misdemeanor domestic violence charges but decided to only arrest Applicant for aggravated assault and domestic violence-strangulation impeding airway (SOR ¶ 2.b). (GE 8)

On January 14, 2021, Applicant called the police and stated that he wanted to "recant" everything he said to the officers, and his wife wanted to do the same. She also called the police and said she wanted to "recant" everything she said to the officers. She said the information in the initial report was untrue, but she would not provide any further information. The district attorney declined to prosecute any charges against Applicant. (GE 8)

Police responded to a call on January 20, 2021. Applicant reported that his wife was going ballistic on him and destroying his property. He told the police that he was comforting his mother-in-law in his bedroom when his wife came in and told him to get away from her mother. He stated that his wife smacked him on the left side of his head. In self-defense, he grabbed her by the hair and threw her out of the bedroom. He told the police that his wife suffered a traumatic brain injury (TBI) years ago and had bipolar tendencies ever since. (GE 6)

The police noted that Applicant's wife kept coming in and out of the house and commented, "leave my husband alone, nothing happened." She eventually came to the door and requested that Applicant not be arrested and not to break up her family. Since there were no physical injuries and no other statement from his wife, no arrests were made. The police requested that the parties separate to let the situation deescalate. She agreed and said she would go to a friend's house. (GE 6)

Applicant and his wife both separately called the police, and they responded to his home on April 13, 2022. He was not staying there, but he still visited. He owned the home, and his property was there. He stated that his wife threatened to throw his property out. He and his wife had an argument. She told the police that she was on probation and Applicant was not supposed to be at the home. She stated that when she tried to leave, he yanked the keys out of her hand and said, "f--- you what are you going to do call the cops." His mother-in-law told the police that his wife (her daughter) had an alcohol problem, and when she drinks, she goes crazy. A neighbor told the police that she heard Applicant's wife yelling for help and that she was being attacked, but Applicant was not standing near his wife at the time. The police noted that his wife was visibly intoxicated. She voluntarily left the home, and there were no arrests. (GE 8)

Police received a phone call from Applicant's address on September 23, 2022. A female was crying and said she was tired of being beaten. Two police officers approached the house. Applicant was outside in his driveway. The police reported he was sweaty and agitated. He yelled that the police should talk to her (his wife), and that he was moving out. He said that his wife was nuts. Applicant is a large man, and the police officers were much smaller than him. (GE 4) The police report details the following interaction with Applicant:

[Applicant] began walking back towards the front door and said that he was busy. I told [Applicant] that he is not going to walk away and began approaching him. [Applicant] immediately turned around and shoved his finger in my face while telling me not to touch him. I attempted to grab [Applicant]'s left arm to detain him. Officer [S] attempted to grab his right arm. [Applicant] began swinging his arms around and pulling away from us. I grabbed [Applicant's] arm and requested additional Officers respond to the scene.

Officer [S] told [Applicant] that he needed to relax. [Applicant] continued to tense up and would not allow me to move his hand behind his back. [Applicant] who was still agitated, began ordering us to go inside and talk to

[Wife]. [Applicant] then tensed up and pulled away while saying he is "getting the f--- out of here." Officer [S] and I had to pull [Applicant] back away from his truck. [Applicant] then leaned with his back on another vehicle in the driveway. Officer [S] ordered [Applicant] to put his hands behind his back. [Applicant] replied with "nope." Officer [S] attempted to deescalate the situation multiple times, and continued to tell [Applicant] to put his hands behind his back. [Applicant] had his hands in front of him and clenched his fingers together, preventing Officer [S] and I from moving his hands behind his back. I attempted to move his arm behind his back but [Applicant] just continued to tense up.

Officer [S] told [Applicant] that this was his last chance to comply. [Applicant] continued [to] resist. [Applicant] demanded that we "give him reasonable articulable suspicion of what we think he's done." Officer [S] began to explain why we were there, and [Applicant] began to argue [with] Officer [S] while continuing to tense up.

Officer [S] and I simultaneously pulled [Applicant] away from the car he was leaning on. I held [Applicant's] left arm, and we held [Applicant] up against a truck in the driveway. [Applicant] pulled away and did not go to the ground. Officer [S] ordered him to put his hands behind his back. I grabbed [Applicant's] left ankle and picked it up to get [Applicant] to the ground. [Applicant] was off balance and taken to the ground. [Applicant] landed on his back with his arms free. I dropped down onto [Applicant's] chest and landed in the side mount position on top of [Applicant]. My right arm landed on [Applicant's] face. I attempted to gain control of his right arm with my left arm. I yelled stop grabbing me as I felt my outer carrier (body armor-carrier) open on the right side (there is Velcro that secures my vest shut). It had felt as if [Applicant] may have grabbed the Velcro loosening it. I then felt [Applicant] bite my right forearm. I yelled at [Applicant] to stop biting me twice and witnessed him biting my right forearm. I pulled my arm up and away from [Applicant] to free my arm from his mouth. I then delivered one strike with my right elbow to the left side of [Applicant's] face. I then used my elbow/forearm to apply pressure to the side of [Applicant's] head to prevent him from biting me again by turning his face to the side and to prevent him from getting up. (GE 4)

Applicant's wife had scrapes on the right side of her face and arm. She was crying and did not want to tell the police what happened because she was afraid Applicant would go to jail, and he was the sole provider. She then reported that she had been staying at hotels or a friend's home for a few days. When she came back, she told him she wanted a divorce and did not want to argue anymore. Applicant was shouting and yelling at her, so she separated herself by going to the backyard. He walked over to her and began yelling and saying, "f--- you, f--- you b----." He then smacked the left side of her face with an open hand. Her glasses fell off and Applicant picked her up and threw her against a tree in the backyard. She was recording the incident when Applicant

smacked the phone out of her hand. She could not remember when she started recording. (GE 4)

Applicant told the police that his wife had an alcohol problem and was on probation for a driving under the influence (DUI) charge. He said he found her at a bar with another man. He stated that she slipped and fell the previous evening, but he never touched her. He complained about the injuries he received from the police when they took him down. He had a cut on his swollen lower lip and scratches on his left forearm. When asked if he bit the police officer, he responded, "I will not deny it. I do not recall it. Biting is part of my training." A photo of the officer showed a reddened circular area, consistent with a bite, but the skin was not broken. There was body camera footage of the incident. (GE 4)

Applicant was arrested for aggravated assault - peace officer, assault - minor injury, and disorderly conduct (SOR ¶ 2.a). On October 10, 2022, Applicant's wife called the police and stated that she wanted to recant her statement, and that she refused to press charges. She stated that she absolutely believed that the charges for aggravated assault against an officer were "trumped" up, and she refused to believe that he could have done it. She was told that charging decisions were up to the district attorney. (GE 4)

On October 11, 2022, a grand jury indicted Applicant on felony charges of aggravated assault on a peace officer and resisting arrest. He pleaded guilty to a felony pursuant to a plea bargain in September 2023. He was sentenced to probation for 18 months. If he successfully completes probation, the charge will be reduced to a misdemeanor. His probation remains in effect until 2025. (Tr. at 29-31, 49-57; GE 7)

Applicant admitted that he was convicted, but denied that he did anything wrong, either to his wife or the police officers. He blamed the incidents on his mentally unstable wife with a drinking problem and a corrupt and dishonest police force.

Applicant denied assaulting his wife. He stated that his "wife is a fan of rough sex." He stated that they were involved in that activity earlier in the day in December 2020 when the police came to their home. He stated that the police noticed a mark on her neck and asked her if he had put his hands on her. He stated that, "she responded (excuse the vulgarity) 'yes, while we were f---ing. I like him doing that.'" He testified that because the charges were quickly dropped by the prosecutor, the officers' body camera footage that would support that statement was never requested. He stated that the camera in his home never showed that he strangled his wife because the Christmas tree completely blocked its view. He stated the officers "couldn't see anything on the video, so they were making assumptions about what they saw on the video." (Tr. at 27-29, 40-44; Applicant's response to SOR)

Applicant denied intentionally biting the officer. (Tr. at 29-31, 45-49, 58-59, 79) He stated the following about the September 2022 arrest:

Two officers arrived and asked me what was going on. I did not know why they were there, so I told them to ask my wife, who was in the house. I am under no legal obligation to communicate with Officers when they just walk up to me and ask me what is going on. They are required to tell me that I'm being detained, and the reasonable articulable suspicion as to what it is that they think I am involved in. When I attempted to continue go about my business the[y] grabbed me and forcibly detained me. . . . Within 30 seconds they had thrown me on the ground and one officer tried to choke me out with his forearm. He missed my throat and instead put his arm in my mouth with all his weight. This left slight marks on his skin from my teeth. (Applicant's response to SOR)

Applicant stated that he accepted the plea bargain for the September 2022 incident on the advice of his attorney because in his city, "this is a charge that is all but impossible to fight and win." He submitted an email with a link to a website that supported his assertions about the problems with the local police. He also indicated that he did not want to risk becoming a convicted felon, and the plea bargain will change to a misdemeanor after he completes probation. He stated that he plans to sue the police department and the officer after he completes his probation. (Tr. at 29-31, 39-44, 49-59, 79-82; Applicant's response to SOR; AE A, B)

I did not find Applicant credible. After considering all the evidence, I find by substantial evidence<sup>1</sup> that he assaulted his wife in December 2020, and he resisted arrest and assaulted a police officer in 2022.

In March 2023, while he was awaiting trial, Applicant was under a no-contact order to remain away from his wife. He was meeting his daughter, who did not know the area that well. They agreed to meet outside his house where his wife was living. He stated that he never intended to violate the order, and he never saw his wife, but the judge considered it a violation of a court order. He was fined and placed on probation for about three years for the offense. (Tr. at 61-65)

Applicant is a licensed pilot. As such, he has stringent rules he must follow. He stated that as a pilot, he is part of a trusted minority, with "unabridged access to the Federal Airway System and our nation's airways." He stated that he is just as meticulous in following the rules for classified information. He does not understand why if other divisions of the U.S. Government consider him "to be an honest, trustworthy and upstanding person. Why does this branch of the Government [DoD] think otherwise?" (Tr. at 52, 70; Applicant's response to SOR)

---

<sup>1</sup> Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See, e.g., ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4<sup>th</sup> Cir. 1994); ISCR Case No. 04-07187 at 5 (App. Bd. Nov. 17, 2006).



## 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 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 J, Criminal Conduct

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Applicant's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following is potentially applicable:

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.

Applicant was arrested for criminal offenses in late 2020 and September 2022. AG ¶ 31(b) is applicable.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;

(c) no reliable evidence to support that the individual committed the offense; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant blamed the incidents on his mentally unstable wife and a corrupt and dishonest police force. I do not find his wife completely blameless in the matter. She was convicted on one occasion and participated at least to a degree in the December 2020 incident. I also accept Applicant's position that some police officers are corrupt and will lie in a case, but I find it unlikely that a police officer would lie about what is on a videotape that is part of the evidence in the case and would be readily available to the defendant. I find the police officer's description of the tape from the 2020 incident to be far more reliable than Applicant's version of the event. I further find that his testimony about the incident was intentionally false.

As to the September 2022 arrest, that conduct was recorded on the officers' body cameras. Additionally, Applicant pleaded guilty pursuant to a plea bargain to a felony, which will be reduced to a misdemeanor if he successfully completes probation. His probation remains in effect until 2025. I am convinced that he resisted arrest and assaulted a police officer.

In March 2023, Applicant violated a no-contact order to remain away from his wife while he was awaiting trial. He was fined and placed on probation for about three years for the offense.

Applicant is a licensed pilot with stringent rules. He stated that he is just as meticulous in how he handles classified information. However, he failed to accept responsibility for his criminal conduct and provided false testimony about it at his hearing. The Appeal Board has held that "[a]n applicant's refusal to acknowledge his misconduct or accept responsibility for it seriously undercuts a finding that the applicant has mitigated his misconduct." See, e.g., ISCR Case No. 22-00761 at 6 (Jun. 13, 2024).

Since I cannot trust Applicant's testimony, I cannot find that criminal conduct is unlikely to recur. His criminal conduct continues to cast doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions are applicable. Criminal conduct security concerns are not mitigated.

#### **Guideline E, Personal Conduct**

The security concern for personal conduct is set out in AG ¶ 15, as follows:

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 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(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 by a

foreign intelligence entity or other individual or group. Such conduct includes:

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

The amended SOR cross-alleges the criminal conduct allegations under personal conduct. That conduct reflects questionable judgment and an unwillingness to comply with rules and regulations. The conduct also created vulnerability to exploitation, manipulation, and duress. AG ¶ 16(e) is applicable. AG ¶ 16(c) is not perfectly applicable, because the conduct is sufficient for an adverse determination under the criminal conduct guideline. However, the general concerns about questionable judgment and an unwillingness to comply with rules and regulations contained in AG ¶¶ 15 and 16(c) are established for that conduct.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following are potentially applicable:

(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; and

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

The discussion under criminal conduct applies equally here. I did not find Applicant credible. He remains on probation for a felony conviction and for violating a no-contact order in 2023. I am unable to find that problematic conduct is unlikely to recur. His conduct continues to cast doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions, individually or collectively, are sufficiently applicable to overcome concerns about Applicant's poor judgment and problematic conduct.

## **Guideline F, Financial Considerations**

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise

questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (b) unwillingness to satisfy debts regardless of the ability to do so.

Applicant's home was foreclosed in about 2018. The foreclosure resolved the first mortgage but left a second loan unpaid. Applicant may have been unable to pay the loan at one point, but he has since refused to pay it under any condition. AG ¶¶ 19(a) and 19(b) are applicable.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant stated that the house went into foreclosure because of his separation and divorce from his first wife. He had to move for his job, and she remained in the house without paying anything toward the loans. He believes he is not responsible for the loan because he let the primary and secondary lenders know that the house was going into foreclosure. He believes the creditor should have participated in the foreclosure. He stated the creditor improperly changed the loan from a secured loan to an unsecured loan. He also stated that collections on the loan are barred by his state's statute of limitations. Little mitigation is provided in security clearance cases when an applicant stands on a legal defense such as the statute of limitations. See *e.g.*, ISCR Case No. 14-01231 at 3 (App. Bd. Feb. 10, 2015). He provided no documentation to support his assertions that he does not owe the lender.

This is not a clear-cut case, even though I am unable to find any mitigating conditions applicable. There are no other financial matters of concern, and Applicant's separation and divorce played a part. Under other circumstances I might have found this defaulted loan mitigated. However, Applicant's failure to accept any responsibility for the matter causes me concern. He does not feel like he benefitted "in any way" from the loan because he "put that money back into the house to try and fix it up and make it better." That is an unreasonable position. Additionally, I am required to consider the whole person and not address individual allegations in a piecemeal manner. His failure to accept responsibility for his financial problems is similar to his failure to accept responsibility for his criminal conduct.

Applicant does not have a track record that would indicate that this defaulted loan will be resolved within a reasonable period. He did not act responsibly under the circumstances, and he did not make a good-faith effort to pay his debt. The unpaid debt continues to cast doubt on his current judgment, reliability, and trustworthiness. Financial considerations security concerns are not 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 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 Guidelines E, F, and J in my whole-person analysis. As a pilot, Applicant is trusted to navigate the nation's airways. However, he is a convicted felon on probation, and he is willing to lie if he believes it will benefit him. He cannot be trusted with our nation's secrets.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the security concerns under Guidelines E, F, and J.

### **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 F:	Against Applicant
Subparagraph 1.a:	Against Applicant
Paragraph 2, Guideline J:	Against Applicant
Subparagraphs 2.a-2.b:	Against Applicant
Paragraph 3, Guideline E:	Against Applicant
Subparagraph 3.a:	Against Applicant

### **Conclusion**

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Edward W. Loughran  
Administrative Judge