



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



In the matter of:)
)
) ISCR Case No. 23-02154
)
Applicant for Security Clearance)

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro Se*

11/20/2024

Decision

BORGSTROM, Eric H., Administrative Judge

While married, Applicant sought a romantic or sexual relationship with an individual with whom he communicated on an adult website. He sent funds to arrange an encounter and then was blackmailed about his activities. He did not timely report this information to his employer, and he continues to hide this information from his family members. He remains vulnerable to exploitation, manipulation, and duress given his past conduct. He did not mitigate the personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On February 12, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (personal conduct). The DCSA CAS acted under Executive Order (EO) 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 implemented by the DOD on June 8, 2017.

In Applicant's March 11, 2024 response to the SOR (Answer), he admitted, with explanations, all three allegations. He did not attach any documents to his Answer. He

requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On March 26, 2024, the Government was ready to proceed to hearing. I was assigned this case on July 30, 2024. On August 16, 2024, DOHA issued a Notice of Hearing, scheduling an in-person hearing for September 17, 2024. The hearing proceeded as scheduled. The Government proffered two exhibits, which I admitted as Government Exhibits (GE) 1 and 2 without objection. Applicant testified and proffered one exhibit, which I admitted as Applicant Exhibit (AE) A without objection. At Applicant's request, I held the record open until October 1, 2024, to provide him an opportunity to supplement the evidentiary record. DOHA received the hearing transcript (Tr.) on September 27, 2024. Applicant timely provided five exhibits - a September 23, 2024 email (AE B), an award (AE C), two character-reference letters (AE D), five performance reviews (AE E), and a one-page statement (AE F). I admitted AE B through F without objection. The evidentiary record closed on October 1, 2024.

Findings of Fact

Applicant is 68 years old. He earned a bachelor's degree in 1979 and an associate degree in 1982. He has been married since 1986. He has two adult children and one adult stepchild. Since March 2017, he has been employed as a network engineer for a DOD contractor. He submitted a security clearance application (SCA) in March 2017, and he has held as secret clearance since about July 2017. (GE 1, GE 2; Tr. 17, 19, 25)

In 1997, Applicant's wife suffered an injury that left her with very limited mobility and unable to secure employment. In May or June 2017, Applicant experienced a sense of loneliness or loss of intimacy due to his wife's condition that caused him to seek a romantic or sexual relationship through a website that linked adults seeking such relationships. He created a profile that included a fake name, his real age, and geographical location. He searched for women with the intent to meet up with them in person. He initiated communications through the chat or text interface on the website with two or three women he believed were in their 20's. Applicant accessed the website exclusively from his personal cell phone and not his home or work computers to avoid detection by his wife. He communicated daily through the website with one woman, who claimed that she was staying locally at a hotel approximately 12 miles from Applicant's house for her modeling career. She requested his personal cell phone number to set up an in-person meeting, and she then texted and sent photos to Applicant's phone. These communications occurred over about three or four weeks. She offered to meet up with Applicant if he wired \$200 to her manager overseas. Applicant acknowledged that such an arrangement may be perceived as prostitution. Applicant wired the funds with the expectation of meeting the woman for lunch and developing a relationship. Applicant even drove by the hotel in advance of their planned meeting. (GE 2; Tr. 25-36, 51-52, 59)

Within a day or so of wiring the \$200, Applicant received telephone calls from a male who threatened to contact Applicant's wife and tell her about Applicant's communications with the woman. He demanded that \$500 to \$600 be wired overseas. Applicant used a credit-card account to wire the funds. The blackmail demands continued, and Applicant received threatening text messages and images of dead bodies. After two

or three wire transfers using his credit card, the credit-card institution prohibited further transfers. Applicant withdrew cash from his bank account and sent additional funds. Ultimately, the banking institution that performed the wire transfers suspended Applicant's account due to the questionable transfers, and Applicant ignored the blackmailer's messages. Applicant estimated that he sent approximately \$3,000-\$4,000 to the blackmailer. (Answer; GE 2; Tr. 39-41, 53-55)

Applicant has never informed his wife about his communications over the adult website, his attempt to meet the woman in person, or his payments to the blackmailer. He also did not report the incident to his employer until after his September 2024 security clearance hearing. During his April 2023 security interview, the investigator confronted Applicant about his overseas wire transfers. Applicant admitted his conduct, as described above, and stated that he would report the incident to his employer and facility security officer (FSO) following the security interview. (GE 2)

In his February 1, 2024 response to DOHA interrogatories, Applicant admitted that he had not reported the communications or the blackmail to his wife or his employer. He also confirmed that he had retained his profile on the adult website and that he accidentally logged into the adult website in about 2021. He admitted that he had not disclosed the incident to his employer out of embarrassment. (GE 2)

As of the hearing, Applicant had not informed his wife, family members, supervisor, or FSO about the communications with the woman or the blackmail. His wife was unaware that he was attending a security clearance hearing. He is certain that his wife would end their marriage if he disclosed the information about the communications and the blackmail to her. He explained, "It tore me apart the fact that I did something like that to hurt my wife." He added, "To this day, I'm a freaking wreck around the whole thing. I'm a mess right now because of this because thinking about it every day I can't let it go." At the hearing, he initially testified that he was only looking for companionship, but then acknowledged that he was looking for a sexual encounter when he engaged in communications with the unknown individual through the adult website. He acknowledged that he exercised poor judgment and was naive. He has the same cell phone number as when he communicated with the woman and blackmailer, but he deleted his profile on the adult website. Applicant has not participated in any mental-health counseling to address the stressors arising from the blackmail incident or the loss of intimacy that caused him to seek out the relationship on the adult website. He admitted that he does not intend to tell his wife about his contacts with the woman, even if he were threatened again by the blackmailer. (Tr. 19, 25-27, 37, 41-49, 59, 61)

Applicant testified that he was participating in training and security training with his employer at the time he communicated with the woman and was blackmailed. He did not believe that he was required to report such threats to his FSO until he was informed of this requirement during his April 2023 security interview. He admitted that he may have continued paying the blackmailer if his wire-transfer account had not been suspended. He did not contact law enforcement about the blackmail due to embarrassment. (Tr. 54-58)

In his post-hearing email and statement, Applicant claimed that he had reported the blackmail incident to his direct manager, second-level manager, and his employer's

facility security officer (FSO) "in complete details." In an unsigned letter and undated letter, Applicant's supervisor acknowledged that he was aware of Applicant "being compromised via black mail and paying a service provided on [an] Adult website." (AE B, AE C, AE F)

Whole Person

Applicant's supervisor described his character as "impeccable." He considers Applicant to be an invaluable member of the team, trustworthy, professional, and a technical expert. A former supervisor praised Applicant's attention to detail, troubleshooting abilities, and technical expertise.
(AE D)

Applicant submitted performance reviews spanning January 2019 through April 2024. For all five performance reviews, Applicant received an overall "Outstanding" or "Excellent" rating. In 2020, Applicant received a Small Group Award from the United States Air Force for his group's COVID response work. (AE C, AE E)

Policies

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(a), 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 sensitive 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

sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive 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 E: Personal Conduct

The 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

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following disqualifying conditions are potentially applicable in this case:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, trustworthiness, 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.

Applicant's creation of a profile on an adult website, communications with an unknown individual to cultivate a relationship, \$200 payment for a prospective sexual encounter, and repeated blackmail payments reflected questionable judgment, unreliability, lack of candor, and unwillingness to comply with rules and regulations. He hid these activities from his employer for over seven years, despite concerns raised during his security interview and in the SOR, and he continues to hide these activities from his family members. He would continue to hide his activities from his family even if contacted by the blackmailer again. AG ¶¶ 16(d) and 16(e)(1) apply.

The following personal conduct mitigating conditions under AG ¶ 17 are potentially relevant:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (c) the offense is so minor, or so much time has passed or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behaviors, 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.

Applicant expressed remorse for his communications with the woman, and it is unlikely that such behavior will recur; however, he has not addressed the underlying issue of his loss of intimacy with his wife, and he remains vulnerable to exploitation, manipulation, and duress. He failed to disclose the blackmail incident to his employer despite his security training, the prompting of the security investigator, and the security concerns in the SOR. He may have told his supervisor and FSO some of the derogatory information after the hearing; however, Applicant will not disclose his conduct to his family members, even if re-contacted by the blackmailers. Applicant's conduct casts doubt on his reliability and judgment, and he remains vulnerable to exploitation. None of the personal conduct mitigating conditions apply.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a position of trust 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 considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline E and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant has demonstrated exemplary work performance for several years, and he credibly testified about a painful episode that continues to haunt him. Although he may not engage in the same questionable conduct in the future; he remains vulnerable to exploitation, manipulation, and duress by continuing to hide his actions from his family members. He has not mitigated the personal conduct security concerns.

Formal Findings

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

| | |
|---------------------------|-------------------|
| Paragraph 1, Guideline E: | AGAINST APPLICANT |
| Subparagraphs 1.a.-1.c.: | Against Applicant |

Conclusion

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric H. Borgstrom
Administrative Judge