



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



In the matter of: )  
)  
) ISCR Case No. 23-02058  
)  
Applicant for Security Clearance )

**Appearances**

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

12/23/2024

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**Decision**

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BORGSTROM, Eric H., Administrative Judge

Applicant's lengthy history of marijuana use includes use while holding a sensitive position. He was arrested for driving under the influence (DUI) of alcohol weeks prior to his hearing. He continues to deny any alcohol problem, despite clear connections between his alcohol consumption and criminal conduct. He has not mitigated the drug involvement, alcohol consumption, and criminal conduct security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On December 28, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse). 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 (AG) implemented by the DOD on June 8, 2017.

In Applicant's March 8, 2024 response to the SOR (Answer), he admitted, with explanations, SOR ¶¶ 1.a. and 1.c. through 1.f. He denied SOR ¶ 1.b., though he admitted using marijuana on one occasion in August 2022, while holding a sensitive position. He

attached a signed statement of intent to abstain from drug involvement in the future, mental-health counseling records, and drug urinalyses results. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On May 23, 2024, the Government was ready to proceed to hearing. I was assigned this case on August 23, 2024. On or about September 12, 2024, the Government amended the SOR (Amendment to the SOR) to add allegations under Guideline G (alcohol consumption) and Guideline J (criminal conduct). On September 25, 2024, DOHA issued a notice scheduling a hearing by video teleconference for October 29, 2024. On October 15, 2024, Applicant responded to the Amendment to the SOR (Answer to the Amendment) and admitted SOR ¶ 2.a. He neither admitted nor denied SOR ¶ 3.a. He attached a two-page criminal docket record. (Answer to the Amendment)

On October 29, 2024, the hearing proceeded as scheduled. The Government proffered two evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 and 2 without objection. Applicant proffered three exhibits, which I admitted as Applicant Exhibits (AE) A through C without objection. DOHA received the hearing transcript (Tr.) on November 6, 2024. The evidentiary record closed on November 6, 2024.

### **Amendment to the SOR**

On or about September 12, 2024, the Government amended the SOR to add allegations under Guideline G and Guideline J. The added allegations read as follows:

2. Guideline G: Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness.

a. On or about August 11, 2024, you were arrested in [state of residence] for DUI [of alcohol]. As of September 12, 2024, charges resulting from this incident remain pending.

3. Guideline J: Criminal activity creates doubt about a person'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.

a. That information set forth in subparagraphs 1.e., 1.f., and 2.a., above.

As noted above, Applicant responded to the Amendment to the SOR on October 15, 2024. He did not object to the amendment, he admitted SOR ¶ 2.a., he neither admitted nor denied SOR ¶ 3.a, and he attached a two-page docket record. (Answer to the Amendment) At the hearing, Applicant admitted SOR ¶ 3.a. (Tr. at 8-9)

### **Findings of Fact**

Applicant is 34 years old. He graduated from high school in 2008, and he earned two associate degrees in 2018. Since February 2020, he has been employed with a DOD

contractor as an engineering support specialist. He was granted a DOD security clearance in June 2022. He married in September 2017, but his wife initiated divorce proceedings in about November 2023. They have been living apart since August 2024, and they share custody of their two children, ages 10 and 5. (GE 1; Tr. 79-83)

The SOR alleges security concerns arising from Applicant's marijuana use, positive drug test result, drug use while holding a sensitive position, and his alcohol and drug criminal charges.

From May 2009 until around December 2013, Applicant illegally used marijuana between daily and a couple times a week. He frequently purchased marijuana illegally for his personal use during this period. In about December 2013, he learned that his then-girlfriend was expecting their child, and he abstained from marijuana use until the summer of 2015. From the summer of 2015 until about November 2018, he used marijuana once or twice a week. During this period, he was given marijuana by friends and co-workers, and he also purchased marijuana illegally for his own use. In November 2018, he started a job in the engineering field, and his marijuana use decreased. Between November 2018 and his February 2019 arrest, he used marijuana approximately once or twice a month. (Answer; GE 1-2; Tr. 90-92, 98-101, 139-142)

In February 2013, Applicant was charged with (1) possession of marijuana, a misdemeanor, and (2) possession of drug paraphernalia, a misdemeanor. He was convicted of both offenses and was sentenced to six months of probation and 40 hours of community service. He was also required to participate in drug counseling. (Answer; GE 2; Tr. 93-97, 151)

In February 2019, Applicant was charged with (1) DUI of a controlled substance; (2) possession of marijuana; and (3) possession of drug paraphernalia. He was convicted of Charge (1), and he was sentenced to 72 hours in jail, 40 hours of community service, and one year of probation. He was ordered to participate in a drug assessment or counseling session. He tested negative twice during drug urinalyses while on probation. (Answer; GE 2; Tr. 102-106, 109-110)

On February 3, 2022, Applicant certified and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 23 - Illegal Use of Drugs or Drug Activity, he admitted that he recreationally used marijuana, with varying frequency, between May 2009 and February 2019, with frequency ranging from twice a day to a few times a week. He answered that he did not intend to use marijuana in the future, and he understood that marijuana use was prohibited by Federal law. He further noted that his employer, a DOD contractor, had a rigorous drug-testing program. (GE 1)

In his February 2022 e-QIP, Applicant admitted a February 2019 criminal charge for DUI of a controlled substance. He was sentenced to 72 hours in jail, required to complete 40 hours of community service, and placed on probation for six months from October 2019 to April 2020. He also admitted a February 2013 criminal charge for possession of a controlled substance. He noted that he was required to participate in a substance abuse assessment as a result of this charge. (GE 1)

Applicant abstained from marijuana from February 2019 until August 2022. He signed a non-disclosure agreement in February 2022, was granted a DOD security clearance in June 2022, and he has had access to sensitive equipment during his current employment. In August 2022, on a family vacation, he used marijuana on one occasion. At the time, he was aware that marijuana use was prohibited by his employer's drug-free workplace policy and as a DOD clearance holder. From mid-July to late August 2022, Applicant used cannabidiol (CBD) products every other day. He has not used marijuana, CBD, or any THC derivatives since late August 2022. In late August 2022, Applicant was selected to participate in a random drug test at the behest of his employer. Concerned that he would test positive for marijuana, he deliberately consumed a significant quantity of water to dilute or adulterate his drug urinalysis. His test result was found to be too diluted, and he was required to participate in a second drug urinalysis. On August 29, 2022, he tested positive for marijuana following a drug urinalysis. He tested positive for marijuana a second time on September 6, 2022. (AE A; GE 2; Tr. 85-89, 1-10-116, 142-147)

Applicant's August 2022 marijuana use, revealed by the positive drug urinalysis, violated his employer's drug-free workplace policy. The employer's policy outlines a random drug testing program whereby all employees are subject to random drug testing through the year. The policy explicitly states that its drug-testing program is based on the Federal schedule of illegal drugs and that marijuana is considered a Level 1 narcotic by the Federal government. "Therefore, despite the legality of recreational marijuana, medical marijuana, or cannabinoids (CBD) within any of the states [the DOD contractor] operates, an employee whose drug test detects marijuana or marijuana substances will be considered non-compliant with the drug testing program and subject to disciplinary actions." The employer's policy notes that CBD products may result in a positive drug test result. (GE 2)

In late August 2022, Applicant was suspended without pay for about a month due to the positive drug test. He was required to attend five drug counseling sessions, which he completed between September 19 and October 17, 2022. He was diagnosed with cannabis use disorder, mild, by a duly qualified medical professional from the employee assistance program (EAP). Upon testing negative for illegal drugs, Applicant was permitted to return to work in late September 2022. He signed a Last Chance Agreement requiring additional drug urinalyses. He did not inform his wife about his marijuana use, positive drug urinalysis, or his suspension until about two weeks into the suspension, when she confronted him about his location. (Answer; GE 2; Tr. 114, 118-121, 144)

On March 21, 2023, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). During the interview, Applicant confirmed that he had used marijuana between 2010 and 2019, with frequency ranging from weekly to daily; however, he abstained from marijuana for about a year in 2014. During the interview, Applicant admitted that he was required to participate in a random drug screening in August 2022. He had recently smoked marijuana while on vacation. He panicked and ingested a significant quantity of water in hopes of delaying the urinalysis. His sample was too diluted, and he was scheduled for a second urinalysis. On September 6, 2022, he tested positive for marijuana. Shortly thereafter Applicant was questioned by his supervisor and a human resources representative. At that time, Applicant admitted

that he had used marijuana while on vacation in mid-August 2022 and also had used a vape pen containing cannabidiol (CBD) in late August 2022. Applicant acknowledged that he was prohibited from using THC and CBD as a DOD contractor. He was placed on unpaid leave for about four weeks. He signed a Last Change Agreement, was required to test negative for drugs and participate in drug counseling, and was allowed to return to work. Applicant completed four drug-counseling sessions. He tested positive for marijuana again in late September 2022. He admitted that he was aware his employer prohibited marijuana use by its employees. In his December 5, 2023 response to DOHA interrogatories, Applicant adopted the summary of the OPM interview. (GE 2)

In his December 5, 2023 response to DOHA interrogatories, Applicant admitted that he used cannabidiol (CBD) products approximately every other day from July to about August 29, 2022. He admitted his illegal purchases of marijuana between 2010 and 2014 and the February 2013 and February 2019 charges and dispositions as delineated above. He admitted that his mother and sister are marijuana users, and he has explicitly asked them not to use marijuana around him. (GE 2)

In his March 8, 2024 Answer, Applicant submitted a statement of intent to abstain from drug involvement and substance misuse in the future. He also attached drug urinalyses showing negative results for October 2022, January 2023, March 2023, and February 2024. (Answer; AE A; Tr. 123-124, 149)

On or about August 11, 2024, Applicant was arrested for driving under the influence (DUI) of alcohol. At the hearing, he admitted that he had consumed several alcoholic beverages during the day prior to his arrest, having attended a barbecue and having visited a bar with friend. He was driving home from the bar and stopped at a gas station. He began to feel impaired by alcohol and decided to sleep in his car. He was awakened by a police officer. He failed a field sobriety test and was taken for a blood test. His blood alcohol content (BAC) was measured at 0.148%. He was arrested and charged with DUI alcohol. As of the hearing, the court's disposition of the charge remained pending. (Answer; Tr. 128-136)

At the hearing, Applicant explained that his family had departed on their annual beach vacation the day prior to his arrest. Due to the marital separation, he had not been invited on the vacation. He attributed his high consumption of alcohol to his marital separation and not participating in the trip. He estimated that he typically has consumed about one or two alcoholic beverages a week since 2014. As of the hearing, he has not altered his alcohol consumption, but he gives his car keys to a friend. He attended two Alcoholics Anonymous (AA) meetings in late August 2024 on the advice of counsel. He has not told his estranged wife about his August 2024 arrest. Applicant sought out and participated in approximately 10 to 15 mental-health counseling sessions in November and December 2023, after his wife initiated divorce proceedings. He is not actively participating in AA or any other sobriety-support programs. He continued to consume alcohol as of the hearing and did not believe he had an alcohol consumption problem. (Tr. 123-127, 137-138, 152, 156-157)

## **Whole Person**

Applicant's former and current supervisors and his longtime friend testified in favor of Applicant's clearance eligibility. His former supervisor was responsible for hiring Applicant and supervised him for approximately three years. He described Applicant as a "hard worker, solid, [and] dependable." Applicant's former supervisor was aware of the 2022 drug use, positive test result, and August 2024 DUI; however, he was not aware of the full extent of Applicant's alcohol and drug use history. He confirmed that employees receive annual security training about policies prohibiting illegal drugs. (Tr. 29-45)

Applicant's current supervisor was aware of the 2022 drug use, positive drug urinalysis, and August 2024 DUI; however, he was not aware of the full extent of Applicant's alcohol and drug history. He praised Applicant as honest and trustworthy, and he confirmed that Applicant has had no other disciplinary actions during his current employment. (Tr. 49-65)

Applicant's longtime friend described Applicant as "very forgiving, understanding, and considerate." He has not observed Applicant intoxicated in over a year, and he last witnessed Applicant use marijuana in about October 2021. (Tr. 69-77)

Applicant's department head submitted a character-reference letter that praised his work performance and contributions as a valued team member. (AE C)

### **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 H: Drug Involvement and Substance Misuse**

The security concern for drug involvement 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 25. In this case, the following disqualifying conditions potentially apply:

- (a) any substance misuse;
- (b) testing positive for an illegal drug;
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

Marijuana is a Schedule I controlled substance under Federal law pursuant to Title 21, Section 812 of the United States Code. Schedule I drugs are those which have a high potential for abuse; have no currently accepted medical use in treatment in the United States; and lack accepted safety for use of the drug under medical supervision. Section 844 under Title 21 of the United States Code makes it unlawful for any person to knowingly or intentionally possess a controlled substance not obtained pursuant to a valid prescription.

On October 25, 2014, the then Director of National Intelligence (DNI) issued guidance that changes to laws by some states and the District of Columbia to legalize or decriminalize the recreational use of marijuana do not alter existing Federal law or the National Security Adjudicative Guidelines, and that an individual's disregard of Federal law pertaining to the use, sale, or manufacture of marijuana remains adjudicatively relevant in national security eligibility determinations.

On December 21, 2021, the DNI issued clarifying guidance concerning marijuana, noting that prior recreational use of marijuana by an individual may be relevant to security adjudications, but is not determinative in the whole-person evaluation. Relevant factors in mitigation include the frequency of use and whether the individual can demonstrate that future use is unlikely to recur.

Applicant used marijuana on hundreds of occasions between May 2009 and February 2019. He tested positive for marijuana in August 2022, and he was diagnosed with cannabis use disorder, mild, while participating in a drug counseling program. Applicant admitted that he illegally purchased marijuana on multiple occasions, and he engaged in drug-related criminal conduct, for which he was arrested and found culpable, in 2013 and 2019. AG ¶¶ 25(a) through 25(d) apply.

In August 2022, while employed in a sensitive position, holding eligibility for a DOD security clearance and with access to sensitive equipment, Applicant used marijuana. The SEAD 4 ¶ D.8. defines a "sensitive position" as:

Any position within or in support of an agency in which the occupant could bring about, by virtue of the nature of the position, a material adverse effect on the national security regardless of whether the occupant had access to classified information, and regardless of whether the occupant is an employee, military service member, or contractor.

See ISCR Case No. 22-01661 at 4 (App. Bd. Sep. 21, 2023). As defined by the SEAD 4, Applicant's marijuana use occurred while he held a "sensitive position." AG ¶ 25(f) applies.

Conditions that could mitigate the drug involvement security concerns are provided under AG ¶ 26. The following are potentially applicable:

(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; and

(b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:

- (1) disassociation from drug-using associates and contacts;
- (2) changing or avoiding the environment where drugs were used; and
- (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

There is no evidence that Applicant has used illegal drugs since August 2022; however, this period of abstinence must be juxtaposed against Applicant's extensive and lengthy history of illegal drug use, possession, and purchase. In addition, Applicant was fully aware that his August 2022 marijuana use was prohibited by his employer's drug-free workplace policy and by DOD regulations for clearance holders. He deliberately acted to dilute his urine sample in August 2022 and to thereby adulterate the test results. His longtime friend testified that he believed he observed Applicant using marijuana at an October 2021 social gathering, and Applicant had denied any marijuana use between February 2019 and August 2022. Applicant's actions to alter his drug urinalysis results and hide his marijuana use raise significant concerns about his trustworthiness. He has submitted a statement of intent to abstain from illegal drug use in the future, and he completed drug counseling required by his employer. Applicant's past marijuana use has occurred when he has been impaired by alcohol, and he has not reduced his alcohol consumption, as evidenced by his recent DUI. Notwithstanding Applicant's statement of intent to abstain from illegal drug use in the future, after having considered the entirety of the record evidence, I cannot conclude that his marijuana use is unlikely to recur. Applicant did not mitigate the drug involvement and substance misuse security concerns.

### **Guideline G: Alcohol Consumption**

The security concern for alcohol consumption is set out in AG ¶ 21:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

The guideline notes several conditions that could raise security concerns under AG ¶ 22. The following is potentially applicable in this case:

- (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder.

In August 2024, Applicant was charged with DUI of alcohol. At the time, his BAC was measured at 0.148%. He admitted that he had operated a motor vehicle while he was impaired by alcohol. The court's disposition of this charge remained pending at the time of the hearing. AG ¶ 22(a) applies.

Conditions that could mitigate the alcohol consumption security concerns are provided under AG ¶ 23. The following is potentially applicable:

- (a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and
- (b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant admitted that he was impaired by alcohol at the time he used marijuana in August 2022. Notwithstanding the nexus between Applicant's alcohol consumption and his criminal conduct, Applicant denied that he had an alcohol problem, and he has no intent to modify his alcohol consumption. Rather, he will give his car keys to a friend when he intends to consume alcohol. Given the recency of Applicant's DUI arrest, the absence of any intent to participate in a sobriety-support program, and no intent to modify his alcohol consumption, Applicant has not mitigated the alcohol consumption security concerns.

### **Guideline J: Criminal Conduct**

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

Criminal activity creates doubt about a person'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 are potentially applicable:

- (a) a pattern of minor offenses, any of which on its own would be unlikely to affect a clearance eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and
- (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.

In February 2013, Applicant was convicted of possession of marijuana and possession of drug paraphernalia. In February 2019, Applicant was convicted of DUI of a

controlled substance, after he was found operating a vehicle while impaired, and in possession of marijuana and drug paraphernalia. In August 2024, Applicant was charged with DUI of alcohol, and his BAC was measured at 0.148%, over the legal limit (0.08%). The court's disposition of that charge remains pending. AG ¶¶ 31 (a) and 31 (b) apply.

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; 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.

Although only Applicant's charged criminal offenses were alleged, Applicant frequently engaged in criminal conduct when he illegally purchased, possessed, and used marijuana between 2009 and 2019. He illegally used marijuana in August 2022. Notwithstanding the nexus between his alcohol consumption and poor judgment, he denied any problem with alcohol and did not intend to modify his alcohol consumption. Applicant's most recent criminal conduct occurred after the SOR issuance and weeks prior to his hearing. He has not established that his criminal behavior is unlikely to recur and does not cast doubt on his reliability, trustworthiness, or good judgment. He did not mitigate the criminal conduct security concerns.

### **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 H, Guideline G, and Guideline J, and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant has excelled in his current employment; however, he has continued to demonstrate questionable judgment in his relationships with marijuana and alcohol. While aware of the prohibitions by his employer, the DOD, and Federal drug laws, he used marijuana in August 2022 while holding a sensitive position. His attempt to adulterate the drug urinalysis, instead of taking responsibility for his misconduct, is an aggravating circumstance. He continues to deny any alcohol problem, despite clear connections between his alcohol consumption and questionable judgment. He has not mitigated the drug involvement, alcohol consumption, and criminal conduct security concerns. With a more established period of abstinence, supported by counseling or other sobriety-support mechanism, perhaps these concerns will be resolved.

### **Formal Findings**

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

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraphs 1.a.-1.f.:	Against Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraph 2.a.:	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraph 3.a.:	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.

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Eric H. Borgstrom  
Administrative Judge