



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



In the matter of:)
)
) ISCR Case No. 23-01775
)
Applicant for Security Clearance)

Appearances

For Government: Mark D. Lawton, Esq., Department Counsel
For Applicant: Daniel P. Meyer, Esq.

11/04/2024

Decision

BENSON, Pamela C., Administrative Judge

Security concerns arising under Guideline I (psychological conditions) are not mitigated at this time. Eligibility for access to classified information is denied.

Statement of the Case

On August 23, 2023, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017.

The SOR detailed reasons why the DCSA CAS did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked. Specifically, the SOR set forth security concerns arising under Guideline I. On November 1, 2023,

Applicant provided a response to the SOR with attached documentation and requested a hearing. On April 29, 2024, Department Counsel was ready to proceed.

On May 8, 2024, the case was assigned to me. After coordinating schedules with Department Counsel and Applicant's attorney, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for July 24, 2024. The hearing was held as scheduled.

Department Counsel submitted Government Exhibits (GE) 1 through 8, and Applicant submitted Applicant's Exhibits (AE) A through F. All proffered documents were admitted into evidence without objection. Department Counsel and Applicant's attorney asked that I mark and append to the record some additional documents. The Government requested four documents, to include an April 2024 disclosure letter, an April 2024 amendment to the SOR, DSM-5 excerpts, and the Government's exhibit list, be marked as Hearing Exhibits (HE) I through IV, accordingly. Applicant's Attorney requested that I mark as HE V Applicant's witness list, and mark as HE VI a brief written by Applicant's counsel. I complied with these requests.

I held the record open for two weeks in the event either party wanted to supplement the record. DOHA received a transcript (Tr.) of the hearing on July 31, 2024. No post-hearing documents were received, and the record closed on August 8, 2024.

Findings of Fact

In Applicant's SOR responses to the original SOR and amended SOR, she admitted the allegations in SOR ¶¶ 1.a through 1.h, with additional information and explanation provided, and she denied SOR ¶ 1.i. Her admissions are accepted as findings of fact. Additional findings follow. (Tr. 6)

Applicant is a 26-year-old software developer for a large federal contractor. She is single with no children. She graduated from college in December 2020 with a bachelor's degree in computer science. She worked as an intern with her current employer before she graduated from college, and she accepted full time employment with this federal contractor in March 2021. This is her first application for a DOD security clearance. (Tr. 21-23, 31, 74-75; GE 1)

Psychological Conditions

Applicant has a genetic vision condition, degenerative myopia, that worsened while she was in high school. Her vision declined to the point that she was not legally permitted to drive a car. She testified that going from a person who wore thick glasses to being a disabled person caused her to experience feelings of depression. Her genetic medical condition is progressive. (Tr. 71, 80-84)

From 2014 to 2016, Applicant stated that her mental health declined. As alleged in SOR ¶ 1.a, Applicant received mental health treatment with "F", a treatment center, from October 2014 to November 2017. She was diagnosed with bipolar disorder type 1, most recent episode depressed, severe with psychotic features; major depressive disorder,

recurrent, moderate; generalized anxiety disorder, and social anxiety disorder. Applicant admitted this information in her response to the SOR. (Tr. 24-27; GE 4, 5, 6, 7)

During cross examination, Applicant admitted that she started experiencing episodes where she felt disconnected from herself when she was about 10 years old. Beginning in about 2011, she started seeing Dr. [A] for mental health treatment. Around the ages. of 12-13, she was more isolative and depressed because of her father's abuse and lack of acceptance by her peers. (Tr. 1, 2, 4-8, 42, 46; GE 2

During Applicant's initial meeting at "F" in October 2014, she told a therapist that as a sophomore in high school she had been cutting herself every two to three days. By her senior year in high school, her self-mutilation occurred about every two weeks. Applicant was referred to see a psychiatrist, Dr. [T], in November 2014. At that meeting Applicant stated that she cut herself due to overwhelming anxiety and stress that she felt incapable of controlling. She also reported that she has had thoughts of suicide in the past, and the only reason she has not followed through with it was due to her religious beliefs. In January 2015, Applicant had a crisis meeting due to self-mutilation and suicidal thoughts. In April 2015, Applicant was seen by Dr. [T] following a manic episode. She reported that she did not sleep for six nights. Applicant was diagnosed with bipolar disorder type 1, most recent episode, manic, severe with psychotic features. During her three years of treatment at "F", Applicant met with her counselor on a weekly basis, and her psychiatrist on about a monthly basis. (Tr. 42-49, 79; GE 5 pg. 16, GE 6 pg. 21 of 24)

SOR ¶ 1.b alleges that Applicant received mental health treatment with "C", a treatment center, from March 2015 to December 2016. She was diagnosed with bipolar disorder, most recent depressed. (Tr. 25-26) SOR ¶ 1.f alleges that in about June 2015, Applicant was admitted to "L", a treatment facility, for bipolar disorder type 1 and suicide ideation. SOR ¶ 1.g alleges that in about October 2016, Applicant was admitted to "L" for bipolar disorder type 1. SOR ¶ 1.h alleges that from about August 2014, to at least April 2017, Applicant experienced recurring suicidal thoughts and engaged in self-harm behavior in the form of self-mutilation (cutting). Applicant admitted all of these allegations. (HE II; GE 3-8; AE E; Tr. 49-52)

In July 2016, Applicant met with Dr. [T] and reported that she experienced a visual hallucination where she believed the skin of her right arm was peeling off. Another time she saw snakes while walking. She also told the psychiatrist that in the past she had thoughts of setting her hair on fire. On March 9, 2017, Applicant met With Dr. [T] and reported that her hallucinations were becoming worse, and that she had more hallucinations of people getting into her body or having control of her body. Applicant also reported that she had periods of performing actions and not having any memory of it, as though she had blacked out. During that same session Applicant also reported that she was non-compliant with her treatment plan. (Tr. 49-52, 55-59, 76-77, 85-86)

SOR ¶ 1.d alleges that in about April 2017, based on an email Applicant sent to a duly qualified mental health professional, she reported a suicide attempt, black outs, and periods of dissociation with the emergence of multiple personalities. Applicant's email read:

Hi Dr. [T], This is ... sort of not [Applicant], it's kind of strange to explain. They've told you about how they have periods where they lose time and someone else is doing things, and, well, I'm that person. I call myself [Mg], or [M] for short. There are others [Applicant] doesn't know about, but the one who's been active lately is me. This was very scary to tell you, but I'm saying this because lately our functioning has been really impaired. Sometimes [Applicant] is literally too anxious to function at all and essentially that's where I come in. A metaphor might be them falling asleep and myself waking up. I guess it's a really dysfunctional coping mechanism; several times in the past few weeks [Applicant] was in very bad danger of killing herself, so I took charge and essentially put her to sleep until she could calm down and be aware again. But I don't have all of her memories and she has none of mine, so this has made things like navigating school life nearly impossible. With all this blacking out and waking up with only partial awareness of what happened in that time, we can't go on like this. But at the same time [Applicant's] in too much of a bad mental state for me to not intervene. I don't know what to do continuing on like this. She wrote up a note for her friends and nearly overdosed, so I had to force her to mentally go to sleep while I was in charge for a while, but I can still feel all her crushing anxiety and depression and it's crushing me too. Or maybe I'm just crazy and this is a severe delusion, and I'm really just [Applicant] who talks weird, I don't know. But either way I'm very unhappy with this, we can't function well, we've been skipping classes, and in general it's just an unhappy situation. Is there anything we could do about this? (GE 7 pg. 8 of 19)

After receiving this email, Dr. [T] advised Applicant that she needed immediate admission for inpatient treatment and stabilization and recommended that she proceed to the nearest emergency room. She failed to comply with this request. Applicant explained that she did not report to the emergency room for admission, as recommended by her psychiatrist, because she did not want to miss school, disappoint her mother, or make her mother financially responsible for additional medical treatment. (HE II; GE 2, GE 7 pg. 8; Tr. 58-65)

SOR ¶ 1.i alleges that in about April 2017, Applicant experienced a dissociative episode during which she communicated with her treatment mental health professional, holding herself out to be an emergent personality known as [M] and reporting a suicide attempt and several black outs. Applicant denied this allegation in her response to the amended SOR. I find this allegation is somewhat repetitive of SOR ¶ 1.d, alleged above. (HE II; GE 2, GE 7 pg. 8 of 19; Tr. 58-65)

SOR ¶ 1.e alleges that in about 2017, Applicant failed to follow her prescribed medical treatment plan by discontinuing her medications that had been prescribed for her. She admitted that she stopped taking her prescribed medications because she felt guilty about the financial burden to her mother for the expense of the medications. Applicant discontinued taking her prescribed medications against medical advice. (GE 2; Tr. 54-55, 65)

Applicant decided to terminate her treatment with "F" in November 2017 against medical advice. She felt guilty about the expense of treatment her mother was responsible for paying. She did not receive any additional mental health treatment until May 2024. During the course of her security clearance investigation, the DCSA CAS requested that she undergo a psychological evaluation. She consented to the evaluation, which took place in November 2022. (GE 2; Tr. 65-66)

Applicant was evaluated on November 9, 2022, by Dr. [G], a licensed clinical psychologist. The evaluation included a face-to-face clinical interview with Applicant, a review of her medical records obtained during the course of her DOD investigation, and psychological testing using at least six testing assessments commonly utilized by mental health professionals. Applicant explained to Dr. [G] that her e-mail from [M] was a one-time incident, but she acknowledged that [M] has been with her for a very long time. Dr. [G]'s diagnostic impression and conclusion was that Applicant's test results were likely invalid due to her underreporting of symptoms. The results were presumed to be invalid due to her defensiveness (positive impression management), which is consistent with self-report measures and responses Applicant provided during the clinical interview. (GE 2; Tr. 60-62, 66-69)

SOR ¶ 1.c alleges that Applicant was evaluated by a licensed psychologist in November 2022. Based on background information, clinical interview and observations, and objective personality assessment, the-psychologist determined that she met criteria for bipolar 1 disorder, obsessive compulsive disorder (OCD), and other specified dissociative disorder. Dr. [G] noted that Applicant retreated into a fantasy world to cope with social isolation and emotional pain. She experienced dissociative episodes with one probable alternate personality. The evaluator reported many concerns about Applicant's prognosis, to include that her degenerative eye disease may worsen, which likely would lead to a worsening of her mood and cognitive state. Dr. [G] found that Applicant lacked the insight that she currently needs psychiatric treatment, and that she also shows a considerable aversion to returning to treatment. Her prognosis was considered poor as her risk factors were too great to make a positive recommendation as it pertained to fitness and suitability to maintain a security clearance. The psychologist concluded that Applicant's condition impaired her judgment, reliability, trustworthiness, and the ability to safeguard classified information. Applicant admitted this information in her SOR response. (GE 2)

Applicant testified that she believed her previous diagnosis of bipolar type 1 disorder was erroneous. She obtained another psychological evaluation from Dr. [Y], a licensed psychologist, in September 2023 to determine the "presence or absence of psychopathology, both current and lifelong, and to provide any relevant clinical recommendations." The most recent psychological assessment included a background interview, self-reported information and medical records provided by Applicant, and five testing assessments. Applicant reported that her first mental health issues developed during her high school years. Her symptoms were most severe when she started her first semester of college in August 2015. She said she experienced passive suicidal ideation at this time, which caused her to voluntarily admit herself for psychiatric hospitalization on two separate occasions with "L". She received a bipolar disorder diagnosis during her hospitalizations, and she told the licensed psychologist that she did not experience any

manic episodes. She also reported that her medications were discontinued in 2017, *with permission from her prescribing provider.* (emphasis added) (Tr. 25-28, 54, 69; AE E)

Applicant did not discuss [M], her alternate personality, or that she failed to follow Dr. [T]'s recommendation that she report to the nearest emergency room for admittance following her April 2017 email. It is clear that Applicant lied to Dr. [Y] when she told him she received permission from her psychiatrist in 2017 to stop her prescribed medications. The evaluation report is also silent about her mental health issues prior to high school, her history of self-mutilation, and her reported concerns that she wanted to set her hair on fire, and other hallucinations she experienced. Based on the medical records in evidence, she falsely self-reported to Dr. [Y] that the two times she was hospitalized were the only instances of her having suicide ideation.

Dr. [Y] stated that Applicant's self-report score fell entirely within the normal range, and because of some inconsistent testing results, he gave "significantly greater weight" to Applicant's responses during the structured clinical interview. Dr. [Y] found that based on the client's self-report during the interview, and her denial of experiencing clinically significant mania or hypomania symptoms, Applicant did not meet the diagnostic criteria for bipolar disorder. The psychologist disclosed in his report, "Of note, while the client did not meet diagnostic criteria for Bipolar Disorder based on her symptom report, the emergence of symptoms of hypomania or mania would suggest the importance of amending the client's diagnostic profile to include Bipolar Disorder and obtaining an additional medication consultation to ensure her symptoms are being effectively addressed via medication." Dr. [Y] recommended that Applicant engage in individual psychotherapy sessions to effectively address her symptoms of OCD, and that she obtains individual psychotherapeutic services to treat her major depressive disorder and generalized anxiety disorder. The psychologist noted that Applicant might also benefit from prescribed medications to treat her mental health conditions. (AE E; Tr. 69-71)

Applicant testified during the hearing that her past diagnosis of bipolar disorder was actually related to her OCD condition. She does not believe that she ever had bipolar disorder, based on her current therapy she has been receiving since May 2024 and her therapist not seeing any indication of a bipolar disorder. It is Applicant's belief that the correct diagnosis is that she has OCD, generalized anxiety disorder, and major depressive disorder, in remission. (Tr. 29-39; 66) She stated,

... my understanding from subsequent psychiatric evaluations I received and treatments that - my bipolar disorder diagnosis can be explained by OCD and was erroneous ... (Tr. 29)

During cross examination, Applicant was asked what specific medical records she had provided to Dr. [Y] conducting her September 2023 psychological evaluation. Applicant admitted that she was uncertain what medical records she had provided to him to review. I requested Applicant obtain clarification of what specific medical records Dr. [Y] reviewed while the record was held open. Applicant acknowledged that she was unable to provide him with all of her medical records. I also requested that Applicant submit medical records of her current treatment that she had just started in May 2024, to support her testimony of the therapist's confirmation that Applicant does not have any

mental health issues related to bipolar disorder. Applicant did not submit any documentation while the record was held open. (Tr. 90; email communication)

Applicant testified that she did very well in college and was selected by her professor to be a teaching assistant. When she worked as an intern for her current employer, she was highly praised and offered a full-time job after graduating cum laude from college. She works mainly from home, and she continues to receive positive feedback from her managers and coworkers. Two supervisors willingly submitted character reference letters on her behalf. She has been able to move on with her life, and she is fully capable of dealing with her mental and physical health issues. (Tr. 92-95; AE F)

Character evidence

A family friend, who has known Applicant for over 20 years, and two coworkers who have supervised Applicant over the last three-to-two years, all state that she is a reliable and trustworthy individual. Her coworkers report that Applicant is emotionally stable and consistently exhibits excellent judgment. They recommend that her DOD security clearance be granted. (AE D)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a

determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and Director of National Intelligence have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Psychological Conditions

AG ¶ 27 articulates the security concern for psychological conditions:

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

AG ¶ 28 provides conditions that could raise a security concern and may be disqualifying in this case:

(a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not

limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;

(c) voluntary or involuntary inpatient hospitalization; and

(d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

AG ¶¶ 28(a), 28(b), 28(c), and 28(d) are established by Applicant's admissions and the record evidence.

Five mitigating conditions under AG ¶ 29 are potentially applicable:

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

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

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

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

In ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013), the DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to

rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2, [App. A] ¶ 2(b).

Applicant began to experience mental health issue when she was about 10 years old. She started receiving treatment in about 2011, to deal with her depression, anxiety, and issues with cutting herself. Beginning in 2014, she started treatment with "F". During the three years of treatment, she met with her therapist weekly and her psychiatrist on approximately a monthly basis.

Applicant received mental health treatment with "C" from March 2015 to December 2016. She was diagnosed with bipolar disorder, most recent depressed. She was admitted in June 2015 to "L" for bipolar disorder type 1 and suicide ideation. She was also admitted for hospitalization at "L" in 2016, for the same mental health issues.

In April 2017, Applicant sent her "F" psychiatrist an email from an emergent personality. Her alternate personality [M] reported that Applicant had tried to commit suicide, and therefore, [M] had to put Applicant to "sleep" in order to protect themselves. Applicant has advised to report to the nearest emergency room for admission, but she did not comply with this request. Not long thereafter, she stopped all medications and discontinued treatment against medical advice. While she received treatment from "F" for three years, her medical records reflected that she had been diagnosed with bipolar disorder type 1, most recent episode depressed, severe with psychotic features; major depressive disorder, recurrent, moderate; generalized anxiety disorder, and social anxiety disorder.

During the course of Applicant's security clearance investigation and after a review of her medical records, the DCSA CAS requested Applicant obtain a psychological evaluation. In November 2022, Dr. [G] had access to the medical records that were obtained during the investigation. She also noted that Applicant's test results were invalid due to her underreporting of symptoms. Dr. [G] stated that Applicant retreated into a fantasy world to cope with social isolation and emotional pain. She experienced dissociative episodes with one probable alternate personality. The evaluator reported many concerns about Applicant's prognosis, to include that her degenerative eye disease may worsen, which likely would lead to a worsening of her mood and cognitive state. Dr. [G] found that Applicant lacked the insight that she currently needs psychiatric treatment, and that she also shows a considerable aversion to returning to treatment. Her prognosis was considered poor as her risk factors were too great to make a positive recommendation as it pertained to fitness and suitability to maintain a security clearance. The psychologist concluded that Applicant's condition impaired her judgment, reliability, trustworthiness, and the ability to safeguard classified information.

Applicant retained a psychologist to conduct an evaluation in September 2023. During the hearing, it became apparent she did not disclose full and accurate details about her mental health issues, to include her hallucinations, self-mutilations, her thoughts of setting her hair on fire, and the email from [M] in April 2017, to Dr [Y] conducting the

evaluation. It is unclear what specific medical records were provided to Dr. [Y]. The record was held open so Applicant could provide supporting information about what specific medical records she had provided to Dr. [Y]. Applicant did not submit any supporting documentation while the record was held open. Without knowing whether Dr. [Y] had full access to the medical records as Dr. [G] had when conducting Applicant's psychological evaluation in November 2022, I am unable to give much weight to this evaluation.

Applicant started going to individual counseling sessions in May 2024, based on the recommendation of Dr. [Y]. She stated that her therapist noted that she does not have bipolar disorder, and essentially all her past symptoms were related to Applicant's true mental health problem, OCD. She testified that her past diagnosis of bipolar disorder has now been corrected to reflect OCD. I requested that Applicant provide current medical records from her treating therapist. Applicant did not submit any supporting documentation while the record was held open.

None of the mitigating conditions fully apply. Applicant did not establish "ongoing and consistent compliance with the treatment plan," see AG ¶ 29(a). She did not provide evidence of "currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional," see AG ¶ 29(b). Although she did provide a "recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that [his] previous condition is under control or in remission, and has a low probability of recurrence or exacerbation," see AG ¶ 29(c), she did not provide information about what specific medical records were provided to Dr. [Y] to support the doctor's overall conclusion. Although Applicant claimed the past psychological/psychiatric condition was misdiagnosed or related to OCD, the situation has been resolved, and [she] no longer shows indications of emotional instability, see AG ¶ 29(d), and "there is no indication of a current problem," see AG ¶ 29(e), I find there is insufficient evidence overall to support her position.

Based on Applicant's long mental health history, I have lingering concerns that she will again suffer from serious mental health issues when depressed, suffering from stress and anxiety, and she will make poor security-related decisions. There is a possibility that mental-health problems could resurface based on the worsening of her eye condition. There are inadequate assurances in the record that mental-health problems will not recur. Psychological conditions 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 the 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), "[t]he ultimate determination" of whether to grant a security clearance "must be an overall commonsense judgment based upon careful consideration of the guidelines" and the whole-person concept. My comments under Guideline I are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under that guideline but some warrant additional comment.

There is no reason to doubt the accuracy of Dr. [G]'s November 2022 evaluation, diagnosis, and prognosis of Applicant. Although there is a September 2023-mental-health diagnosis or prognosis from a qualified mental-health professional that contradicts Dr. [G]'s evaluation, I am unable to give much weight to that evaluation due to the uncertainty of whether Dr. [Y] possessed all of Applicant's medical records that were provided to Dr. [G]. I also find that Applicant's recent return to mental health treatment in May 2024 is a positive step in the right direction, and she is admired by her co-workers and praised for being a reliable and trustworthy individual. However, I do not have current treatment records from her therapist or a favorable prognosis.

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board's jurisprudence to the facts and circumstances in the context of the whole person. Guideline I security concerns are not mitigated at this time.

This decision should not be construed as a determination that Applicant cannot or will not establish that the issuance of her security clearance is warranted in the future. With the establishment of a track record of consistent mental-health counseling and treatment in accordance with the treatment recommendations of a qualified mental-health professional, and a favorable prognosis by a qualified mental-health professional, she may well be able to demonstrate persuasive evidence of her security clearance worthiness.

Formal Findings

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

Paragraph 1, Guideline I:

AGAINST APPLICANT

Subparagraphs 1.a through 1.i:

Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant or continue Applicant's

eligibility for access to classified information. Eligibility for access to classified information is denied.

Pamela C. Benson
Administrative Judge