



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-02323

Appearances

For Government: Cassie L. Ford, Esq., Department Counsel

For Applicant: *Pro se*

08/20/2025

Decision

HARVEY, Mark, Administrative Judge:

Security concerns arising under Guidelines H (drug involvement and substance misuse) and J (criminal conduct), are mitigated; however, security concerns under Guideline E (personal conduct) are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On March 13, 2024, Applicant completed and signed an Electronic Questionnaires for Investigations Processing (e-QIP) or a security clearance application (SCA). (Government Exhibit (GE) 1) On February 3, 2025, the Defense Counterintelligence and Security Agency (DCSA) 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. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA 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 Guidelines H, J, and E. (HE 2) On March 7, 2025, Applicant provided a response to the SOR and requested a hearing. (HE 3) On April 21, 2025, Department Counsel was ready to proceed.

On April 28, 2025, the case was assigned to me. On May 5, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for June 11, 2025. (HE 1) The hearing was held as scheduled.

Department Counsel offered two exhibits into evidence; Applicant did not provide any exhibits; there were no objections; and I admitted all proffered exhibits into evidence. (Transcript (Tr.) 15-16; GE 1-GE 2) On July 1, 2025, DOHA received a transcript of the hearing. No exhibits were proffered after the hearing.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted the allegations in SOR ¶¶ 1.a through 1.f, 2.a, 3.a, and 3.b. (HE 3) He also provided mitigating information. (HE 3) His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 35-year-old aircraft mechanic who has been employed by a Defense contractor since March of 2024. (Tr. 7, 18, 36) He has never held a security clearance. (Tr. 36) In 2009, he graduated from high school. (Tr. 7) He has not attended college, and he has not served in the military. (Tr. 7, 18) He has been common-law married for about one month. (Tr. 7) He has one child with his current wife and one child from a previous relationship. (Tr. 8) His children are ages 2 and 10 years old. (Tr. 8)

Drug Involvement, Substance Misuse, and Criminal Conduct

Applicant's SOR alleges under Guideline H, and Applicant admitted: ¶ 1.a--From about April 2003 until at least December 2022, he used marijuana with varying frequency; ¶ 1.b--From about May 2003 until about October 2022, he purchased marijuana on various occasions; ¶ 1.c--From about 2013 until about 2018, he sold marijuana on various occasions; ¶ 1.d--In about November 2018, he was charged with possession of marijuana; ¶ 1.e--In about 2016, he was charged with possession of marijuana; and 1.f--In about July 2007, he tested positive for marijuana on a drug test.

Applicant first used marijuana when he was 13 years old. (Tr. 19) He used marijuana on a weekly basis when he was in his late teens. (Tr. 20) He purchased marijuana mostly from friends over the years. (Tr. 20-21) In 2007, he applied for employment; he tested positive on a drug test for marijuana; and he was not hired for the employment. (Tr. 21-22) He believed at some points in his life that he was addicted to marijuana. (Tr. 23) He knew his marijuana use in May of 2022 was federally illegal. (Tr.

21) His most recent use of marijuana was around December 2022. (Tr. 30) He was hazy on the most recent date of his marijuana use. (Tr. 33) He used delta-8 tetrahydrocannabinol (THC) after he stopped using marijuana that he purchased in cannabidiol (CBD) shops in the vicinity of his residence. (Tr. 34, 39) He stopped using delta-8 THC at about the time he received his current employment, and he estimated it was in April or May of 2024. (Tr. 37-38)

In 2016, the police stopped Applicant's vehicle and found a gram of marijuana in it. (Tr. 27) He arrived at court late, and the prosecutor said the court would contact him about rescheduling. (Tr. 28) He never heard from the court. (Tr. 28)

In 2018, the police stopped Applicant's vehicle for a traffic infraction. (Tr. 24-27) The police found marijuana in his vehicle and issued a citation to him. (Tr. 25) He pleaded guilty and received pretrial diversion. (Tr. 26, 28) He completed the six-month probation period, and he paid the fine and costs. (Tr. 26, 28)

From about 2013 until about 2017 or 2018, Applicant sold marijuana on various occasions. (Tr. 24; HE 3) His marijuana sales were not very profitable. (Tr. 23) He sold small amounts of marijuana to his friends. (Tr. 23) He used most of his profits to purchase marijuana for his own marijuana use. (Tr. 24) His state of residence has not legalized marijuana possession, use, or sales. (Tr. 21) He does not associate with others who he knows use marijuana. (Tr. 29-30) He has not received substance-abuse counseling. (Tr. 35)

Under Guideline J, Applicant's SOR alleges and Applicant admitted for SOR ¶ 2.a that SOR ¶¶ 1.c through 1.e above constitute criminal conduct.

Personal Conduct

Under Guideline E, Applicant's SOR alleges, and Applicant admitted that he falsified material facts on his March 13, 2024 SCA, in response to the following requests: For SOR ¶ 3.a: "Section 23 - Illegal Use of Drugs or Drug Activity" asked him to "Provide an estimate of the month and year of first use" of illegal drugs, and "Section 23 - Illegal Use of Drugs or Drug Activity" asked him to "Provide an estimate of the month and year of most recent use" of illegal drugs. He answered "04/2008" and "05/2020" respectively, and thereby deliberately failed to disclose that information as set forth in SOR ¶ 1.a, above. For SOR ¶ 3.b: "Section 23 - Illegal Use of Drugs or Drug Activity" asked him "In the last seven (7) years, have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling or sale of any drug or controlled substance?" He answered "No", and thereby deliberately failed to disclose that information as set forth in SOR ¶¶ 1.b. and 1.c., above.

In his March 13, 2024 SCA, Applicant said he did not intend to use marijuana in the future. (GE 1) On August 21, 2024, an Office of Personnel Management (OPM) investigator interviewed Applicant. He disclosed the marijuana involvement indicated in SOR ¶¶ 1.a through 1.f. In addition, he said he most recently used delta-8 THC in July 2024. (GE 2) On December 22, 2024, he responded to DOHA interrogatories, and he

said, "After my [OPM] interview I came to the conclusion to not use marijuana in the future regardless of its legalization." (GE 2)

In Applicant's SOR response, he said:

I am writing this to express my desire to continue in the process of acquiring my government security clearance. I wish to say that I deeply regret having not fully disclosed all factors listed within the statement of reasons at the beginning of this process. This regret and desire to be fully honest within my interview is what led me to disclose these inconsistencies. I wish to express that since starting this process nearly a year ago I have been in line with all security and behavior needs at my place of employment and have even raised physical safety concerns to my superiors. The work being done here is crucial to the future of the safety and security of the nation that my family and I have called home for my entire existence, and I wish to continue this work that has given a greater feeling of purpose to my employment, and existence than I have ever known. I know that I have erred in my lack of [disclosure], and I can only ask for forgiveness for that error. I felt quite some amount of shame for those actions, and was unsure if that [disclosure] would have eliminated me from consideration. I have prior to now and will in the future stalwartly reject any use of controlled substances regardless of the determinations made concerning my security clearance. I have stayed away from illegal substances for some time now and have no desire to return to their use. Nor associate with those who do or engage in any of the behaviors or acts listed in the statement of reasons. Despite my prior acts and use of substances, I have always maintained gainful employment and aided with those in need in my family and neighborhood. My prior acts and use of these substances never came before my job, family, or other responsibilities at any point in my life. I would sooner die than put anything before my loved ones, job, or responsibilities in that manner. I cannot undo my prior actions but hope that my [disclosures] now can in some way atone for their initial absence. I hope that my determination on this matter is believed, and proven over time so my skills can be put to the best use I could possibly imagine by helping secure my nation today and in the future. I again deeply regret my prior lack of [disclosure], and my desire to disclose was to not enter into this critical [role] based on only a partial admission of facts.

At his hearing, he said he deeply regretted his history of involvement with marijuana and his falsification of his SCA. (Tr. 32) He promised to be honest in the future. (Tr. 32) One of the reasons he did not disclose his history of marijuana use was because he was worried that he would not receive the employment he was seeking. (Tr. 33) He described his desire to continue to serve the United States as an employee of a government contractor because he wants to contribute to the national defense. (Tr. 17)

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 applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865, *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, this decision should not 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 [or her] 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

Drug Involvement, Substance Misuse, and Criminal Conduct

AG ¶ 24 describes the security concern about drug involvement and substance misuse:

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.

AG ¶ 30 describes the security concern about criminal conduct, “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 ¶ 25 provides three drug involvement and substance misuse conditions that could raise a security concern and may be disqualifying in this case: “(a) any substance misuse (see above definition); “(b) testing positive for an illegal drug”; and “(c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.”

AG ¶ 31 provides two criminal conduct conditions that could raise a security concern and may be disqualifying in this case:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security 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.

AG ¶¶ 25(a), 26(b), 25(c), 31(a), and 31(b) are established. Discussion of the disqualifying conditions is in the mitigating section *infra*.

AG ¶ 26 lists four conditions that could mitigate drug involvement and substance misuse security concerns:

(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;

(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;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

AG ¶ 32 lists four conditions that could mitigate criminal conduct security concerns:

(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;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(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.

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 admitted that he possessed, used, purchased, and sold marijuana. Marijuana is listed on Schedule I of the Controlled Substances Act (CSA). See 21 U.S.C. § 812(c); Drug Enforcement Administration (DEA) listing at <https://www.dea.gov/drug-information/drug-scheduling>. Possession and sale of marijuana is a federal and state criminal offense in the state where Applicant resides.

The DOHA Appeal Board cited the importance of consideration of "the changing landscape of marijuana law and . . . of the Director of National Intelligence's *Clarifying Guidance Concerning Marijuana*." ISCR Case No. 23-02402 at 4 (App. Bd. Feb. 19, 2025). See also ISCR Case No. 24-00914 at 3 (App. Bd. Apr. 9, 2025) (noting the "evolving landscape of marijuana law and policy," "the resulting increasing prevalence of marijuana use," and in some instances "recreational marijuana use deserves less, or even no negative inference on judgment.").

The SecEA promulgated clarifying guidance concerning marijuana-related issues in security clearance adjudications as follows:

[Federal] agencies are instructed that prior recreational marijuana use by an individual may be relevant to adjudications but not determinative. The SecEA has provided direction in [the adjudicative guidelines] to agencies that requires them to use a "whole-person concept." This requires adjudicators to carefully weigh a number of variables in an individual's life to determine whether that individual's behavior raises a security concern, if at all, and whether that concern has been mitigated such that the individual may now receive a favorable adjudicative determination. Relevant mitigations include, but are not limited to, frequency of use and whether the individual can demonstrate that future use is unlikely to recur, including by signing an attestation or other such appropriate mitigation. Additionally, in light of the long-standing federal law and policy prohibiting illegal drug use

while occupying a sensitive position or holding a security clearance, agencies are encouraged to advise prospective national security workforce employees that they should refrain from any future marijuana use upon initiation of the national security vetting process, which commences once the individual signs the certification contained in the Standard Form 86 (SF-86), Questionnaire for National Security Positions.

Security Executive Agent Clarifying Guidance Concerning Marijuana for Agencies Conducting Adjudications of Persons Proposed for Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position (Dec. 21, 2021) at 2 (quoted in ISCR Case No. 20-02974 at 3-4 (App. Bd. Feb. 1, 2022)).

Applicant's SOR alleges under Guideline H, and Applicant admitted: ¶ 1.a--From about April 2003 until at least December 2022, he used marijuana with varying frequency; ¶ 1.b--From about May 2003 until about October 2022, he purchased marijuana on various occasions; ¶ 1.c--From about 2013 until about 2018, he sold marijuana on various occasions; ¶ 1.d--In about November 2018, he was charged with possession of marijuana; ¶ 1.e--In about 2016, he was charged with possession of marijuana; and 1.f--In about July 2007, he tested positive for marijuana on a drug test. The SOR did not allege; however, he admitted that he used marijuana until about December 2022, and he used delta-8 THC or CBDs until about March of 2024.

Applicant presented some important mitigating information. He ended his misuse of delta-9 marijuana around December 2022. His most recent use of delta-8 marijuana was in July of 2024. However, the record does not establish that Applicant's delta-8 THC use was a violation of federal law at the time he used it. There is mixed authority for whether possession or use of delta-8 THC violates federal law. See *Anderson v. Diamondback Investment Group, LLC*, 117 F.4th 165, 184-85 (4th Cir. 2024) (discussing delta-8 THC and noting that the 2018 Agriculture Improvement Act "exempts 'hemp,' a product defined as 'the plant *Cannabis sativa* L. and any part of that plant, including the seeds thereof and all derivatives, extracts, [and] cannabinoids . . . with a delta-9 [THC] concentration of not more than 0.3 percent on a dry weight basis,' from Schedule I of the CSA"); *Ak Futures LLC v. Boyd St. Distro, LLC*, 35 F.4th 682 (9th Cir. 2022) (stating same). Applicant's admission that he used delta-8 THC did not include an admission that it contained delta-9 THC above the 0.3 percent threshold.

Applicant disclosed his marijuana involvement in his response to DOHA interrogatories, in his SOR response, and at his hearing. His misuse of marijuana after 2018 was not discovered through a polygraph test, investigative efforts, or a urinalysis test. He avoids persons and environments where illegal drugs are used or likely to be used. No marijuana use occurred while he had access to classified information or held a sensitive position. He promised not to use illegal drugs in the future. He did not have a drug use disorder diagnosis, and there is no recommendation that he receive drug counseling or treatment.

Applicant's decisions to possess and use illegal drugs are an indication he lacks the qualities expected of those with access to national secrets. However, the time between

Applicant's most recent involvement with delta-9 THC and his hearing was about 30 months, December 2022 to June 11, 2025 (the date of his hearing), and this period of abstaining from marijuana possession and use, and his sincere and credible promise not to use marijuana in the future are sufficient under all the circumstances to fully establish AG ¶¶ 26(a) and 32(a). His involvement with illegal drugs is unlikely to recur and does not cast doubt on his current reliability, trustworthiness, and judgment. Guidelines H and J security concerns are mitigated.

Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern stating:

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 lists personal conduct disqualifying conditions that are potentially relevant in this case as follows:

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

The SOR alleges, and the record evidence establishes AG ¶ 16(a). Further details will be discussed in the mitigation analysis, *infra*. AG ¶ 17 lists conditions that could mitigate personal conduct security concerns:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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;

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

(f) the information was unsubstantiated or from a source of questionable reliability.

In Applicant's March 13, 2024 SCA, he failed to disclose the full scope of his marijuana involvement. He admitted that he intentionally omitted complete information about his marijuana involvement because he was worried that he would not receive the employment he was seeking.

In his August 21, 2024 OPM interview, he said he most recently used delta-8 THC in July 2024. He affirmed the accuracy of his summary of OPM interview on December 22, 2024. At his hearing, he said he most recently used delta-8 THC around the time of the start of his employment in March, April, or May of 2024. The discrepancy between the dates of his most recent delta-8 THC use is minor and of no security significance.

No mitigating conditions apply to the falsifications of Applicant's March 13, 2024 SCA because they are recent; they were intentional; and they are serious. His falsifications of his SCA cast doubt on his reliability, trustworthiness, and judgment. Personal conduct 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 Guidelines H, J, and

E are incorporated in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines but some warrant additional comment.

Applicant is a 35-year-old aircraft mechanic who has been employed by a Defense contractor since March of 2024. He has never held a security clearance. In 2009, he graduated from high school. He has not attended college. I found Applicant to be a sincere and candid witness.

It is well settled that once a concern arises regarding an applicant's security clearance eligibility, there is a strong presumption against granting a security clearance. *See Dorfmont*, 913 F. 2d at 1401. "[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant's eligibility for access to classified information." ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

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. Drug involvement and substance misuse and criminal conduct security concerns are mitigated; however, personal conduct security concerns are not mitigated.

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more of an established history of honest disclosure of security-related information, he may well demonstrate persuasive evidence of his 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 H: Subparagraphs 1.a through 1.f:	FOR APPLICANT For Applicant
Paragraph 2, Guideline J: Subparagraph 2.a:	FOR APPLICANT For Applicant
Paragraph 3, Guideline E: Subparagraphs 3.a and 3.b:	AGAINST APPLICANT Against Applicant

Conclusion

Considering all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to grant Applicant eligibility for access to classified information. Eligibility for access to classified information is denied.

Mark Harvey
Administrative Judge