



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 23-02038

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: Ronald Sykstus, Esq.

09/19/2025

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**Decision**

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HYAMS, Ross D., Administrative Judge:

Applicant failed to mitigate the psychological conditions security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On October 16, 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 I (psychological conditions). Applicant answered the SOR on November 6, 2023, and requested a hearing before an administrative judge. The case was assigned to me on September 5, 2024.

The hearing convened on January 28, 2025. Department Counsel submitted Government Exhibits (GE) 1-4, which were admitted in evidence without objection. Applicant submitted Applicant's Exhibits (AE) A-M, which were admitted without objection. After the hearing concluded, Applicant requested to submit AE N, which was admitted without objection.

**Findings of Fact**

Applicant admitted the only SOR allegation, ¶ 1.a. His admission is incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 40 years old. He has worked as a field service representative since 2018. He married in 2008 and has three children, who are minors. He earned an associate degree in 2010, a bachelor's degree in 2021, and an MBA in 2022. He served on active duty in the Army from 2008-2017, and he received an honorable discharge. (Tr. 14-17; GE 1)

Under Guideline I, the SOR alleges: In October 2022, Applicant was evaluated by a DoD connected psychologist who found that Applicant met the criteria for major depressive disorder and generalized anxiety disorder. Applicant experienced depression, anxiety, and chronic pain from 2016-2018, and was hospitalized after a suicide attempt in 2017. The evaluator found in 2022 that Applicant continued to report symptoms of depression, anxiety and interpersonal difficulties, and acknowledged transient thoughts of self-harm. The evaluator assessed that Applicant's condition could pose a risk to his judgment, reliability, trustworthiness, and ability to protect classified information. He also found that Applicant's prognosis was guarded and may improve if he sought mental health treatment. (SOR; GE 3)

In about 2013, while stationed overseas, Applicant found out his mother had a terminal illness. He was an only child and was close to his mother. He experienced depression for the first time and had his first suicidal ideation. He stated he had not experienced any mental health problems before this time. He brought his mother to stay with him so he could care for her, but she was not allowed to stay longer than 90 days. Applicant requested to transfer home, to a U.S. territory, so he could care for her, but his request was denied by the Army. He was transferred back to Post A in State A in late 2014. (Tr. 47-96)

Applicant reported that his new leadership at Post A was not understanding of the issue with his mother. He became frustrated that he could not care for his mother. He claimed that he was called derogatory racial names by personnel in his leadership, and his wife was racially harassed when someone in leadership admonished her to "speak English." His mother passed away in 2015. (Tr. 18-96)

In late 2015, Applicant was hospitalized for mental health care. After being berated by members of his chain of command, he went to the behavioral health clinic and saw Major L. This provider had him transferred to the hospital for longer term care. Applicant reported that he was very angry and had in-patient care for a week. He received psychiatric medication to assist him, but he complained about the side effects. He was assigned to attend outpatient therapy every day for a month and attended outpatient therapy from January to October 2016. He was diagnosed with major depressive disorder and anxiety disorder, and his prognosis was guarded. In late 2016, he was transferred to Post B in State A, and the Army started processing him for a medical discharge. During that time, he had two back surgeries and could not do physical training. (Tr. 47-96, 125-147; GE 3)

Applicant wanted to keep his job and provide for his family, and he felt resentment that the Army was taking that away from him. He had feelings of aggression and did not want to take direction from others. On Post B, he experienced a suicidal ideation and was treated by Dr. M. from about December 2016 to August 2017. He attended therapy a few times a month and was given psychiatric medication. Dr. M reported that he was not fully compliant with the treatment and continued to have anger issues. Dr. M reported that Applicant had demonstrated unreliability in treatment, thought he may engage in violent behavior, was quick to anger, and thought his prognosis was poor. (Tr. 47-96, 125-147; GE 3)

In early June 2017, Applicant had a suicidal ideation and was hospitalized in an intensive outpatient program for eight weeks. After this program concluded, he was alleged to have attempted suicide by medication overdose and was hospitalized. Applicant disputes that this was an intentional overdose. He was discharged from the Army a few weeks later due to major depressive disorder with suicidal ideation, and a high risk for suicide. (Tr. 47-96, 125-147; GE 3)

After Applicant's discharge in October 2017, he moved to State B, and reported he was able to meet with a social worker and therapist at the Department of Veterans Affairs (VA). No documentation was submitted about these providers or how many times Applicant met with them. When he moved to State C in July 2018, he found it harder to access the VA. He did not restart treatment until January 2019, and he met with provider Ms. T about four times. That treatment was interrupted, because he had several 60-90 day deployments for work. (Tr. 47-96, 125-147)

Ms. T wrote a short letter for Applicant in January 2019. She described Applicant's symptoms at that time as mild. Applicant stopped seeing her in 2020 when he moved to State C for work. After moving, he stopped attending therapy and reported that he used his free time to obtain his degrees. While he continued getting medical care at the VA, he was no longer getting counseling or mental health care. (Tr. 47-96, 125-147; AE G)

After Applicant received the SOR, he sought mental health care from the VA in February 2024 from Dr. H. The record shows that he saw her about four times. He claimed he felt stable at the time, but took the SOR concerns seriously. For four years he had been focusing on obtaining his degree and personal growth, and didn't think he had a mental health problem at that time. He reported that he was using coping mechanisms he has learned in past therapy experiences. (Tr. 47-96, 125-147; AE C)

Applicant submitted a letter from Dr. H prepared in December 2024. The letter does not provide an evaluation or current assessment of mental health. The letter states that Applicant had seen her about five times, and had last seen her in July 2024, which was about six months prior to the letter. (AE C, E, F)

The record shows that Applicant saw another provider, Mr. D, once in November 2024. Mr. D provided a letter for Applicant. The letter does not provide an evaluation or current assessment of mental health; it only provides a basic summary of diagnosis of

Applicant's physical and mental health complaints from 2018 and 2024. In January 2025, he had an appointment scheduled with another provider but had not seen her yet. He claimed that he intends to continue to seek counseling, so he never goes back to the old ways or feelings. (Tr. 47-96, 125-147; AE C, D)

In October 2022, Applicant met with a DoD connected psychologist for an evaluation as part of the security clearance process, to determine if he has a condition that could impair his reliability, judgement, and trustworthiness. The evaluator found his medical records showed Applicant did not reach positive treatment outcomes before being discharged by the Army, and at time was hostile to treatment and the provider. The evaluator diagnosed him with depressive disorder, recurrent, mild, and general anxiety disorder. He found that Applicant failed to engage in mental health treatment for at least two years (2020-2022) and that he continues to endorse ongoing symptoms of depression, anxiety, chronic pain, and interpersonal difficulties. He reported that Applicant also acknowledged transient thoughts of self-harm and being quick tempered. He found that Applicant's prognosis was guarded because of his failure to follow treatment recommendations and continue with his mental health treatment, and Applicant has a condition that can pose a significant risk to his judgement, reliability, trustworthiness, and ability to protect classified information. (GE 3)

After the hearing concluded, Applicant submitted a psychological evaluation report from Dr. B. She did a virtual evaluation of Applicant, in two sessions, a few days after the hearing. Dr. B's report did not indicate if she reviewed any case records for her evaluation. Her report found that Applicant did not currently show any indicators suggesting a mental health diagnosis. The report noted that the Beck Depression Inventory and the Beck Anxiety Inventory were given to Applicant, along with a short personality test, but no specific findings of the testing were provided. These inventories are 21-item questionnaires that rely on self-reporting of feelings and symptoms. While the report found no indicators to suggest the presence of any mental health condition or disorder, Dr. B recommended that Applicant continue psychological therapy to help maintain emotional stability. (AE N)

Applicant had six character witnesses testify. His supervisor, three coworkers, a former colleague from the Army, and a friend of his wife. His professional character witnesses say he is a good employee and they have no concerns about his access to classified information. The sixth witness had little personal knowledge and experience with him. Applicant also submitted a training certificate, diploma, transcripts, and resume. (Tr. 97-125; AE H-M)

## **Policies**

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision. The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters 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 classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline I, 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.

I have considered the disqualifying conditions for psychological conditions under AG ¶ 28 and the following are potentially applicable 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.

The documentation in the record and Applicant's testimony establish AG ¶¶ 28(a), (b), (c), and (d).

I have considered the mitigating conditions under AG ¶ 29. The following 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.

None of the mitigating conditions apply. Applicant started having mental health problems in 2013 after finding out his mother was terminally ill. These problems continued to escalate until 2016 and 2017, when he had suicidal ideations and required hospitalization, intense outpatient therapy, and medication for mental health problems. Applicant was discharged from the Army because of his poor mental health condition, and his failure to have a successful treatment outcome. He claims he had some mental health counseling from 2017-2019. He did not have any treatment from at least 2020 to early 2024, and he only sought treatment after the SOR was issued in this case. Since February 2024, Applicant had inconsistent and sporadic care. Applicant claims he will continue with treatment, but it is hard to credit that assertion based on his treatment history since leaving the Army.

This case involves differing expert opinions from mental health treatment providers. The Appeal Board took up the issue of conflicting expert opinions and addressed the administrative judge's weighing of evidence in ISCR Case No. 19-00151 at 8 (App. Bd. Dec. 10, 2019):

A Judge is required to weigh conflicting evidence and to resolve such conflicts based upon a careful evaluation of factors such as the comparative reliability, plausibility, and ultimate truthfulness of conflicting pieces of evidence. See, e.g., ISCR Case No. 05-06723 at 4 (App. Bd. Nov. 4, 2007). A Judge is neither compelled to accept a DoD-required psychologist's diagnosis of an Applicant nor bound by any expert's testimony or report. Rather, the Judge had to consider the record evidence as a whole in decoding what weight to give conflicting expert opinions. See, e.g., ISCR Case No. 98-0265 at 4 (App. Bd. Mar. 17, 1999) and ISCR Case No. 99-0288 at 3 (App. Bd. Sep. 18, 2000).

Applicant provided a psychological evaluation from a psychologist who has never treated him. She saw Applicant two times after the hearing, and relied on his self-reporting in a depression and anxiety inventory to conclude he had no indicators suggest the presence of any mental health condition or disorder. The Government's evaluator had a lot more information to use for the evaluation and produced a more thorough report. I find the Government's report credible and accurate, and I give it more weight.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have considered the witness testimony, and Applicant's personal achievement documentation. I have incorporated my comments under Guideline I in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility for a security clearance. The security concerns under Guideline I are not mitigated. However, with a longer and consistent track record of mental health treatment and stability, Applicant may be eligible for a clearance in the future.

### **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
Subparagraph 1.a:	Against Applicant

### **Conclusion**

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

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Ross D. Hyams  
Administrative Judge