DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 24-01749
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government:
Andrew H. Henderson, Esquire, Department Counsel

For Applicant:
Grant Couch, Esquire

12/16/2025

Decision

GLENDON, John Bayard, Administrative Judge:

Applicant has not mitigated the security concerns raised under the adjudicative guidelines for drug involvement and substance misuse, psychological conditions, criminal conduct, and personal conduct. National security eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a Questionnaire for National Security Positions on May 26, 2023 (the Questionnaire). On January 28, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H, I, J, and E. The action was taken under Executive Order 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) effective within DoD after June 8, 2017.

Applicant responded through counsel to the SOR allegations on March 6, 2025, (Answer) and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). Department Counsel was prepared to proceed on April 14, 2025. The case was assigned to me on April 22, 2025. DOHA sent Applicant a Notice of Hearing on February June 9, 2025, scheduling the case to be heard via Microsoft Teams video teleconference on August 5, 2025.

I convened the hearing as scheduled. Department Counsel offered five documents marked as Government Exhibits (GE) 1 through 5. Applicant's counsel offered the five exhibits attached to the Answer, which were marked as Applicant Exhibits (AE) A through F. He also offered seven additional exhibits, which he marked as AE G through M. All exhibits were admitted into the record without objection. DOHA received the transcript (Tr.) on August 12, 2025. (Tr. at 10-11, 29.)

Findings of Fact

Applicant is 45 years old. He has worked for DoD contractors since 2008. He received a high school diploma in 1999 and has completed several years of college courses, but he has not earned a degree. He has never married and has no children though he has been helping to raise a relative's child. He was granted eligibility for a public trust position in the past. He submitted his 2023 Questionnaire seeking eligibility for a security clearance in connection with his employment. (Tr. at 60-63; GE 1 at 5, 11-12, 13-14, 27-28; AE F; AE J.)

Paragraph 1, Guideline H (Drug Involvement and Substance Misuse)

SOR ¶ 1.a. 2015/2016 Opioid Use Disorder Diagnosis and Treatment. In 2014, Applicant had a surgical procedure that left him with nerve damage. For a period prior to his surgery, he was prescribed Xanax for anxiety and Norco, which contained hydrocodone, a highly addictive opiate, for pain management related to back pain. He was prescribed to take Norco three times per day. In July 2014, his prescription for Norco was doubled to every four hours (six times a day) to help him with pain after the surgery. In June 2015, he was given a prescription to continue using Norco every four hours. Later in 2015, he began to experience side effects and wanted to stop taking the medication. His doctor advised him that he had to detox to stop the medication. In the Questionnaire, Applicant wrote that he voluntarily admitted himself into an in-patient detox program at a hospital (the Hospital) for "rehab" for hydrocodone and Xanax. He remained in the program for two weeks. He started to take Norco again in August 2015. He continued to take the drug through at least April 2016. (Answer at 1; Tr. at 103-104; GE 1 at 25-26; GE 2 at 4; AE A at 4, 8.)

The record does not contain documentary evidence of a formal diagnosis of Opioid Use Disorder at the time of the 2015 hospitalization or before. Applicant records from an urgent care facility during the period June 2014 to July 2016 contain several statements that he "presents for chronic opioid management" and comment that he is receiving

opioids for back pain." The records of his 2015 hospitalization for a "3 day detox," as he described his treatment in the Questionnaire, are not in the record; however, a record from the 2022 hospitalization at the Hospital states that he was treated in 2016 for opioid use disorder. Thus, it appears that his earlier hospitalization may have been in 2016. Applicant's testimony confirmed that he was voluntarily hospitalized because after the surgery, he had taken, pursuant to prescriptions, high dosages ("an astronomical amount") of hydrocodone and Xanax and needed to reduce his dosages. He testified that the allegation about his diagnosis may be accurate. He also said that he had been prescribed and had taken Norco since about 2011. (Tr. at 64-65, 80-82; GE 2 at 26; GE 4 at 5; AE A at 4, 8, 9,12,14,17.)

SOR ¶ 1.b. 2022 Opioid Use Disorder (Severe) and Benzodiazepine Use Disorder (Mild) Diagnosis and Treatment. Applicant was admitted to the Hospital again on October 31, 2022. A record signed by doctor A reflects that his "chief complaint" at the time of his admission was "Opiate & benzo dependence." Benzo is short for a class of drugs called benzodiazepines. Xanax is a specific type of benzo drug. Under the heading "History of Present Medical Illness," doctor A noted that "patient admitted for addiction problem." Doctor A noted his diagnosis as "Opiate & benzo dependence." Like most of the facts in the Hospital's records, Applicant's disputed the accuracy of these statements and those set forth below in this section. (Tr. at 84-; GE 4 at 1, 4, 12.)

Applicant testified that after his sister's death and some minor work-related back pain, he started taking "a previous medication prescribed to [him]," in other words, an old prescription. He claimed he did not like the way the medication made him feel. He could not recall when he started taking this medication but commented that it had "been well over months, months, maybe years prior." He clarified that he was referring to both hydrocodone and Xanax. He also acknowledged that his old prescription might have been from 2019, and he took pills that were in his medicine cabinet. (Tr. at 66-67, 84-86, 99.)

A separate medical note on the day of Applicant's admission and signed by doctors B and C state that:

> **5-10 norco's** per day for past several months following the death of his sister. Last use was 10/31/22 [the day of Applicant's admission] and he obtained it from a friend. Patient also has a prescription for tramadol for which he takes twice a day but doesn't like it as much as it doesn't provide euphoria and makes him too sleepy. Patient had also been treated previously in 2016 for opioid use disorder and received suboxone which was tapered. He also endorsed Xanax use during that time and now admits occasional use with the last dose 10/31/22. His history is somewhat vague and evasive as he will tell different providers conflicting versions of substance use. He is seeking treatment for relief from withdrawal symptoms. (Emphasis in original.)

GE 4 at 5. A third note, which was signed by doctor B on November 2, 2022, reads as follows:

> **1. Severe Opiate Use Disorder with Severe Exacerbation, Currently with Acute Withdrawal Requiring Inpatient Withdrawal Management Level of Care**
>
> *** * ***
>
> - Patient is resistant to accept OUD [Opioid Use Disorder] and he is asking to receive Tramadol instead of norco despite being advised of the risks. However, he is willing to consider initiation of suboxone for management of opioid withdrawal.

(GE 4 at 8.) Applicant was discharged from the Substance Use Recovery Unit at the Hospital on November 3, 2022. At the time of discharge, his diagnosis was "Opioid use disorder, severe, dependence." A discharge note reads, 'Medications for detoxification have been completed and the patient is medically stable to transition to a lower level of care." Another discharge notes states, "He was strongly encouraged to remain abstinent from alcohol and from all other drugs of addiction, and to cultivate active and ongoing involvement in a sober support network that supports changing addictive behaviors and mindset." Applicant declined to pursue aftercare with the Hospital's Substance Use Recovery Intensive Outpatient Program but was given the contact information for this program with a start date of the following Monday in case he changed his mind. (GE 4 at 10, 16, 19.)

In his Answer, Applicant denied the SOR allegations except that he acknowledged that he voluntarily returned to the Hospital in 2022 because he believed that the medications he was taking were making him sick. He claimed that he was falsely accused by one doctor of obtaining drugs illegally, and he dismissed that doctor. He was treated by a junior doctor and claimed that he was diagnosed with high blood pressure. He wrote that he was prescribed medication for that condition and was discharged. The Hospital's records for Applicant's treatment do not contain a diagnosis of high blood pressure and do not support Applicant's denials and claims. (Answer at 2; GE 4.)

Applicant submitted medical reports of his treatment by a pain management clinic (the PM Clinic). The reports begin on August 22, 2023, about nine or ten months after his discharge from the Hospital. He sought pain management for low back pain. Rather than abstain from using opiates to manage his back pain, he sought and received a prescription of 5 mg of Norco, taken twice daily. The clinic's records states that he was to take "Norco as needed for moderate to severe pain." He was prescribed 60 tablets of Norco for one month. (AE C at 63-71.)

In response to my questions at the hearing about Applicant's general medical history, he acknowledged that he has been taking opioids, such as Norco, for his back pain on and off since about 2001, to be taken "as needed." He claimed that he has never been advised that opioids are highly addictive and should only be taken for short periods

of time, but then he acknowledged that he was aware of the risks of long-term use of opioids. Twenty-one years later he continues to take an opioid. (Tr. at 107-109.)

SOR ¶ 1.c. 2022 Non-Prescribed Use of Norco. See findings set forth under SOR ¶ 1.b, above. In the Answer, Applicant denied this allegation. He wrote that his use of Norco was pursuant to a prescription from a licensed medical professional. He blamed the misinformation in the Hospital's records on a doctor who was angry with him for what he claimed was no reason. He wrote that the doctor erroneously accused him of obtaining prescription drugs illegally. He claimed further that he was diagnosed with high blood pressure at the Hospital in 2022 and was prescribed medication for that condition. As noted above, the records do not support Applicant's version of the facts. (Answer at 2: GE 4 at 12.)

Applicant also denied this allegation at the hearing. He described his interaction with the doctor he claimed he dismissed because of the doctor's allegedly false accusation. The basis of the doctor's claim was that Applicant disclosed he was taking Norco prior to his admission and the doctor noted he had no prescription for the drug. The doctor asked where he obtained the drug without a prescription. Applicant testified that he had a prescription for Norco in October 2022 when he entered the Hospital for detox. Like much of his testimony, it was not credible. (Tr. at 69-71.)

SOR ¶ 1.d. Recent Excessive Use of Xanax. Applicant reported during a July 2024 mental health evaluation (see SOR ¶ 1.f, below) that on occasion he used more Xanax than prescribed. Also, see findings set forth above under SOR ¶ 1.b, above. In the March 2025 Answer, Applicant denied this allegation. He wrote that he was being treated at a pain management clinic and takes all of his prescription medication in accordance with his prescriptions. At the hearing, Applicant denied the allegation and testified that he did not recall making that statement during his evaluation. (Answer at 2; Tr. at 71-72, 92; GE 3 at 4; Tr. at 71-7.)

SOR ¶ 1.e. Recent Excessive use of Hydrocodone. Applicant also reported during his 2024 mental health evaluation that on occasion he has taken "an extra [dose of Hydrocodone] here and there." In the Answer, Applicant denied this allegation and made the same assertion he made with respect to extra Xanax dosages. At the hearing, he repeated this response to the facts alleged. (Answer at 2-3; Tr. at 71-72, 93, 97; GE 3 at 4.)

SOR ¶ 1.f. July 2024 Diagnosis of Opioid Use Disorder (Severe) and Sedative, Hypnotic, or Anxiolytic Use Disorder (Severe). On July 24, 2024, Applicant's mental health condition was evaluated by a licensed clinical psychologist (the Psychologist) at the request of the DCSA. She provided a detailed report that was part of the Government's evidence (GE 3). In her report, she set forth the following "diagnostic profile" of Applicant "based upon background information, clinical interview, and observations:"

1) Opioid Use Disorder, Severe
2) Sedative, Hypnotic, or Anxiolytic Use Disorder, Severe

Building on her diagnoses, the Psychologist came to two significant conclusions in the Report based upon all of the information available to her. The first one was:

> [Applicant] does not appear to have used the recommended treatment options in 2022 from treating providers. He actively denied when asked on multiple occasions any history of substance abuse treatment or intervention despite clear documentation of this care. And, he continues to use substances in the context of two detox treatment admissions in his history. Overall, [Applicant] appears to have continued use of substances despite the consequences which raises significant concerns.

GE 3 at 8. Her second conclusion was:

> Overall, [Applicant's] current symptoms appear moderate to severe in the sense that he has taken many efforts to deny, avoid disclosure and continue his substance use. Although he appears to generally function while under the influence of substances, this raises more concerns that there is a dependence on these substances which could cause significant impact of his judgment, reliability, or trustworthiness concerning classified information. If [Applicant] continues to use substances in this fashion, his outcomes are unpredictable and there is significant risk involved.

GE 3 at 8.

In the Answer, Applicant denied the SOR allegation and disputed the Psychologist's two diagnoses and her conclusion that there were significant concerns about his judgment, reliability, and trustworthiness. He claimed that the Psychologist diagnosis is unsupported by the documentation in the record. He further denied that he failed to provide to the Psychologist a complete history of his substance use and treatment. He went on to claim that the 2022 hospitalization merely resulted in a diagnosis of high blood pressure. As discussed above under the heading of SOR ¶ 1.b, the documentation in the record regarding his 2022 hospitalization demonstrates that Applicant's claims are entirely fictitious. (GE 3 at 1, 4, 5, 7, 8, 10, 12, 15-17, 19.)

At the hearing, Applicant pressed the same claims without successfully countering the documentation in the record. His counsel relied upon records of PM Clinic that Applicant started using in 2023 to obtain prescriptions for Norco and Xanax before his interview with the Psychologist. Applicant never disclosed to the Psychologist that he had participated in chronic pain programs in the past or at the time of the interview. Part of her conclusions was based upon Applicant's failure to disclose his treatment at the Hospital in 2022. Applicant's evidence revealed the PM Clinic's treatment using Norco and Xanax that began prior to the Psychologist's July 24, 2024 evaluation interview and

continues up to the present. He claimed that the Psychiatrist never specifically asked about any treatment that would require a response about his treatment at the Hospital or the PM Clinic. (Tr. at 20-25; 31-39, 48, 72-73.)

Paragraph 2, Guideline I (Psychological Conditions)

SOR ¶ 2.a. 2024 Evaluation and Diagnosis. The Government alleged in this subparagraph that in July 2024 the Psychologist evaluated and diagnosed Applicant as set forth under SOR ¶ 1.f, above, and concluded that his condition raised significant concerns about his judgment, reliability, and trustworthiness. The allegation continues that one of the factors supporting her conclusion was Applicant's failure to provide a full and comprehensive history of his substance use and treatment. *See* discussion under SOR ¶ 1.f, above.

Paragraph 3, Guideline J (Criminal Conduct)

SOR ¶ 3.a. Cross-Allegation of subparagraph 1.c, above. *See* discussion under SOR ¶ 1.c, above.

Paragraph 4, Guideline E (Personal Conduct)

SOR ¶ 4.a. Falsification of Information Provided to Mental Health Evaluator. The Psychologist wrote in her evaluation report of Applicant that, "He completely denied prior treatment courses (2016 and 2022 inpatient detox) when asked about his substance use history." She continued:

> In the context of this evaluation, it does appear that **[Applicant's] lack of engagement in providing a full and comprehensive history as it relates to his substance use could be considered a refusal to provide full, frank, and truthful answers to lawful questions** of investigators, security officials, or other official representatives in connection with a personnel security or trustworthiness determination. As a result, there are significant concerns as it relates to his reliability and trustworthiness. Additionally, records provide a pattern of concerning limited disclosures related to his substance use history to those prescribing him medications (specifically, Xanax and Hydrocodone). (Emphasis added.)

(GE 3 at 7-8.) As noted above, the Psychologist also wrote in her report that Applicant, "actively denied when asked on multiple occasions any history of substance use treatment or intervention despite clear documentation of this care." (GE 3 at 8.)

Mitigation and Whole-Person Evidence

I have carefully reviewed all of Applicant's testimony and exhibits addressing mitigation and the whole-person analysis. Below is a summary of the most significant

evidence. Applicant submitted two personal reference letters from a former colleague and a former supervisor. Both references praised Applicant's character and professionalism. Neither letter addressed Applicant's drug use or otherwise showed that the reference had any awareness of the security concerns alleged in the SOR. AE G isa written statement of intent in which Applicant committed not to misuse prescription drugs in the future. Applicant also provided certificates at the hearing evidencing that he has taken online educational classes about cocaine and LSD. He also submitted a July 2025 email recognizing his "outstanding job performance." (AE D; AE E; AE G; AE K.)

Policies

When evaluating an applicant's suitability for national security eligibility, 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 national security eligibility.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of applicable guidelines in the context 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, "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified

information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information. Finally, as emphasized in Section 7 of Executive Order 10865, "Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." *See also* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

Analysis

Paragraph 1, Guideline H (Drug Involvement and Substance Misuse)

The security concerns relating to the guideline for drug involvement and substance misuse are set out in AG ¶ 24, which reads as follows:

> 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 ¶ 25 sets forth the following conditions that could raise security concerns and may be disqualifying in this case:

> (a) any substance misuse (see above definition); and
>
> (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

The evidence establishes AG ¶¶ 25(a) and 25(c). In at least 2022, Applicant illegally obtained, possessed, and misused Norco and misused Norco and Xanax This shifts the burden to Applicant to mitigate the security concerns raised by his conduct.

AG ¶ 26 of this guideline provides conditions that could mitigate security concerns. I have considered all the mitigating conditions under AG ¶ 26 and conclude that the following two conditions have possible application to the facts of this case:

> (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 the 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.

Applicant has not established mitigation under AG ¶ 26(a). He has used opioids for over two decades AG ¶ 26(a), and he has not shown convincingly that his use was entirely pursuant to recent, legal prescriptions. He admitted illegal use of controlled substances to the Psychologist in 2024. In 2022, the Hospital's medical record reciting that he was taking five-to-ten Norcos per day after the death of his sister is highly credible and quite disturbing. He was obviously numbing the pain due to the loss of his sister. I credit Applicant's use of Norco and Xanax since 2023 under the supervision of the PM Clinic. However, under the circumstances of this case, Applicant's misuse is recent and continues to cast doubt on his current reliability, trustworthiness, and judgment.

Mitigation under AG ¶ 26(b) has also not been established. Applicant denies any past substance misuse. He supports his denials with fanciful claims that a doctor was mean and lied in a medical report that Applicant admitted to obtaining large amounts of Norco from a friend. He also claims that the Psychologist must have misunderstood his statements to her about excess drug use. That claim also lacks credibility.

Paragraph 2, Guideline I (Psychological Conditions)

The security concern under this guideline is set out in AG ¶ 27 as follows:

> 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 counselling.

The following potentially disqualifying conditions under AG ¶ 28 could apply to the facts of 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; and

(c) voluntary or involuntary inpatient hospitalization.

Applicant's potentially disqualifying behavior under other guidelines renders AG ¶ 28(a) inapplicable. However, the Psychologist's opinions in her report establish AG ¶ 28(b) and Applicant's two hospitalizations establish AG ¶ 28(c). Therefore, the burden shifts to Appellant to rebut, extenuate, or mitigate the security concerns raised by his behavior, psychological diagnosis, and hospitalizations.

AG ¶ 29 lists the following five mitigating conditions under Guideline I:

(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 above mitigating conditions are established by the facts in this case. Applicant has no treatment plan. After his detox at the Hospital in 2022, Applicant declined to participate in appropriate aftercare to end his addiction to Norco and Xanax of more than two decades. His resumption of taking both drugs under the supervision of the PM Clinic is no substitute for abstinence for someone with a serious drug addiction. Also, Applicant offered no evidence in rebuttal to the Psychologist's opinion from a mental health professional from the PM Clinic or any other qualified mental health professional.

Applicant's counsel attempted to undermine the opinion of the Psychologist with the argument that her report did not spell out in detail the specifics indicators of her diagnoses under the DSM-5. His argument was unpersuasive under the extraordinary facts of this case. Counsel also tried to argue that the Psychologist did not give consideration to Applicant's use of Norco and Xanax under what he viewed as the controlled conditions of the PM Clinic. Again, no one from the clinic testified or offered evidence to support his argument. Moreover, his argument that the Psychologist failed to ask Applicant the right question during the interview to obligate Applicant to disclose his experience with the PM Clinic is nonsense. It is quite apparent that Applicant chose to conceal his current drug maintenance treatment and the surrounding circumstances from the Psychologist. He has a well-established pattern of lying about his drug use.

Paragraph 3, Guideline J (Criminal Conduct)

The security concern under this guideline is set out in AG ¶ 30 as follows:

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 five conditions that could raise security concerns under this guideline. The following condition is potentially applicable in this case and may be disqualifying:

(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.

The Hospital's report detailing that Applicant purchased Norco from "a friend" and consumed has consumed large amounts of Norco after the death of his sister establishes that this activity was also criminal in nature. Oxycodone is a controlled substance and can

only be purchased and taken consistent with valid prescriptions and obtained from authorized pharmacies. The record established this potential disqualifying condition.

AG ¶ 32 sets forth four mitigating conditions under Guideline J. The following three mitigating conditions have possible application in this case:

> (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;
>
> (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.

None of the above mitigating conditions have application to the facts of this case. When viewed in the context of Applicant's two decades of abusing opioids, even if the abuse was on and off as he claims, his actions in 2022 are too recent, are likely to recur, and cast serious doubts about his reliability, trustworthiness, and judgment. The record contains no material evidence of rehabilitation. If he had entered the recommended aftercare in 2022 and remained abstinent, three years of avoiding the drugs to which he is addicted might constitute some evidence of rehabilitation. However, he did not choose that course. Instead, he obtained new prescriptions from the PM Clinic and continued to feed his addiction, raising the risk that he would once again illegally binge on Norco and Xanax when faced with an emotional crisis. I note that the record is devoid of any evidence that he disclosed his past drug abuse to the PM Clinic when it took him on as a patient with back pain. Also, the Hospital's records are far more reliable than Applicant's testimony.

Paragraph 4, Guideline E (Personal Conduct)

The security concern under this guideline is set out in AG ¶ 15 as follows:

> Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

AG ¶ 16 describes seven conditions that could raise security concerns under this guideline. The following condition is potentially applicable in this case and may be disqualifying:

> (b) deliberately providing false or misleading information, or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

The record evidence established this condition. Applicant failed to disclose to the Psychologist during his interview that he participated in substance use treatment programs in 2015 or 2016 and in 2022 and denied being hospitalized due to his addiction in connection with those programs.

AG ¶ 17 sets forth seven mitigating conditions under Guideline E. The following two mitigating conditions have possible application in this case:

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

Neither of the above conditions have any application to the facts of this case. Applicant made no effort to make a prompt good-faith effort to correct his concealment. Also, his offense is hardly minor. He was obligated to be fully candid during his interview with the Psychologist, and he failed to meet that obligation. His actions to conceal highly relevant facts from the Psychologist cast serious doubt about his reliability, trustworthiness, and judgment.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for national security eligibility 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 national security eligibility must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have given consideration to Applicant's character references and other relevant whole-person evidence. However, the facts of this case plainly demonstrate that Applicant did not take his responsibility to fully disclose the facts of his drug use and treatment throughout the security clearance application and adjudication process. His failure to treat the process seriously, and especially his dishonest testimony, establish that Applicant is not someone who can be trusted. Overall, the record evidence leaves me with serious questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

Formal Findings

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

Paragraph 1, Guideline H:	AGAINST APPLICANT
Subparagraph 1.a through 1. f:	Against Applicant
Paragraph 2, Guideline I:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
Paragraph 4, Guideline E	AGAINST APPLICANT
Subparagraph 4.a:	Against Applicant

Conclusion

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

JOHN BAYARD GLENDON
Administrative Judge