



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



## Appearances

For Government: Karen A. Moreno-Sayles, Esq., Department Counsel  
For Applicant: *Pro se*

12/10/2025

## Decision

BORGSTROM, Eric H., Administrative Judge:

The record evidence did not establish the alcohol consumption security concerns. Applicant did not mitigate the drug involvement, criminal conduct, and personal conduct security concerns. Eligibility for access to classified information is denied.

## Statement of the Case

On August 26, 2024, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (personal conduct), Guideline G (alcohol consumption), Guideline H (drug involvement and substance misuse), and Guideline J (criminal conduct). The DCSA acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

In Applicant's October 10, 2024 response to the SOR (Answer), he admitted, with explanations, SOR ¶¶ 1.a.-1.m., 3.b., 3.c., and 4.b.-4.h.; however, some of the explanations dispute any intent to falsify. He attached three character-reference letters.

He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. (Answer)

On December 23, 2024, the Government was ready to proceed to a hearing. Another administrative judge was assigned this case on May 29, 2025. On July 3, 2025, a notice was issued scheduling the hearing for August 6, 2025, by video teleconference. When the original administrative judge became unavailable, I was assigned this case on August 4, 2025. The hearing proceeded as scheduled. The Government proffered 10 evidentiary exhibits, which I admitted as Government Exhibits (GE) 1 through 10, without objection. Applicant testified and did not submit any documentary evidence. I held the record open until September 8, 2025, to give Applicant the opportunity to provide any other additional evidence. I received the transcript (Tr.) on August 18, 2025.

On September 4, 2025, Applicant emailed six character-reference letters, marked collectively as Applicant Exhibit (AE) A, and a substance use assessment (AE B). I admitted AE A and B, without objection. The record closed on September 8, 2025. My decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

### **Findings of Fact**

Applicant is 49 years old. He graduated from high school in 1995. He married his third wife in about late 2018 or early 2019, separated in July 2021, and divorced in August 2022. He has three children, ages 25, 20, and 9. Since about May 2022, he has been employed full time as a field service engineer with a DOD contractor. (GE 1-3; Tr. 32, 43, 45-46)

The SOR alleges security concerns based upon falsifications during his background security investigation, an alcohol use disorder diagnosis, illegal drug use, a substance use disorder diagnosis, and criminal conduct.

### **Criminal Conduct**

The SOR alleges criminal conduct security concerns arising from a series of arrests and criminal charges between May 2008 and September 2018. In his Answer, Applicant denied SOR ¶ 4.a. and admitted SOR ¶¶ 4.b.-4.h. These allegations are established by the criminal records entered in evidence (GE 7-10).

**SOR ¶ 4.a.** On or about May 7, 2008, Applicant was charged with contempt of court, a misdemeanor, for violation of a protective order. He left two phone messages on his ex-wife's voicemail in violation of a protective order. He pled no contest and was found guilty. At the hearing, Applicant denied serving any jail time and denied any violence against his ex-wife, but he admitted that his ex-wife told the court that she was fearful of Applicant. He testified that he and his first wife are now good friends, and she submitted a character-reference letter, discussed *infra*. (GE 7, GE 8 at 1, 14-15; Tr. 33-39)

**SOR ¶ 4.b.** On or about May 11, 2008, Applicant was charged with fraud – insufficient funds, a misdemeanor. He was sentenced to the pre-trial diversion program, and the charge was later dismissed. (GE 7 at 9)

**SOR ¶ 4.c.** On or about November 29, 2008, Applicant was charged with fraud – insufficient funds, a misdemeanor. In March 2009, he was sentenced to a pre-trial diversion program, and the charge was later dismissed. (GE 7, GE 8)

**SOR ¶ 4.d.** On or about January 15, 2009, Applicant was charged with failure to appear, a misdemeanor, for missing a court appearance related to one of the insufficient-funds charges. He was re-arrested. Applicant testified that, after he divorced his first wife, he closed his accounts and moved out of state to care for relatives. He had been unaware of the bounced checks until he returned to the area in about December 2008. The court permitted him 30 days to pay the bounced checks, which he did. There is no evidence as to the disposition of these offenses. (GE 7, GE 8 at 11; Tr. 37-38)

**SOR ¶ 4.e.** On or about July 2, 2018, Applicant and his then partner (H) engaged in a physical altercation at their residence. According to police records, H claimed that Applicant grabbed her and punched her in her eye. Law enforcement officers observed H's eye was "very swollen and starting to bruise." She also claimed that he threatened three different times that he would kill her. When Applicant was interviewed by the responding officers, he claimed that he and H "had been experimenting with different drugs and she [had] been up for several days." Applicant was charged with (1) simple assault and (2) battery, both misdemeanors. A protective order was instituted prohibiting Applicant from contact with H and their young son for a year. Applicant pled no contest to the two charges. The court withheld adjudication on the two criminal offenses but placed Applicant on probation for one year. While on probation, he was required to participate in an alcohol and drug evaluation and complete a domestic violence course. (GE 7, GE 9 at 6, 15, 17; Tr. 48)

At the hearing, Applicant testified that a verbal altercation led to a physical altercation with H. He attempted to push H away and unintentionally struck her eye, causing a black eye. He explained that this was the first instance of a physical altercation between him and H. He denied the influence of any drugs or alcohol in this altercation, and he denied ever using illegal drugs during his relationship with H. He explained that his comments to the police officer about "experimenting with different drugs" were referring to H's use of marijuana at the time, but he denied any use himself at the time of the altercation. They married after this altercation occurred. (Tr. 39-41, 45, 49-50)

**SOR ¶ 4.f.** On or about July 12, 2018, Applicant was charged with contempt of court, a misdemeanor, for violating the protective order. He sent two text messages to H. This charge was later nolle prossed. Applicant admitted that he violated the protective order by repeatedly contacting H to retrieve his belongings and work equipment. He further admitted serving a total of 21 days in jail, in parts, due to twice violating the protective order and for once violating probation. During his January 2023 security interview, Applicant admitted intentionally violating the protective orders by attempting to

contact his son. His violation of the protective order also resulted in a violation of probation charge. He spent a week in jail for each violation. (GE 3, GE 7, GE 10; Tr. 42)

**SOR ¶ 4.g.** On or about August 29, 2018, Applicant was charged with contempt of court, a misdemeanor, for violating the protective order. He sent a text message to H. This charge was later nolle prossed. (GE 7, GE 10 at 11)

**SOR ¶ 4.h.** On or about September 24, 2018, Applicant was charged with a probation violation due to the two contempt of court charges. (GE 7, GE 10)

### **Drug Involvement and Alcohol Consumption**

The drug involvement and substance security concerns are based upon Applicant's illegal use of marijuana and methphetamines, a failed drug test, and a diagnosis of methamphetamine-type substance use disorder, moderate. These allegations are established by Applicant's admissions and the treatment records.

**SOR ¶ 3.c.** During custody proceedings between Applicant and his third wife, he tested positive for methphetamines in September 2021 following a court-ordered hair-follicle drug screening. (Answer; GE 6)

**SOR ¶ 2.a., 3.a., 3.b., and 3.d.** From March 11, 2022 to March 21, 2022, Applicant participated in alcohol and drug treatment at a residential facility (NL). During his March 11, 2022 pre-admission assessment, he reported that he consumed alcohol once or twice a week and had last consumed alcohol on March 7, 2022. He also reported that he had used methphetamines on a weekly basis for about two months, most recently on March 2, 2022. (GE 4 at 5, 9; Tr. 51-52, 59)

Upon admission to NL, Applicant provided a comprehensive medical history, including concerning abuse suffered during his childhood. He admitted consuming "2-3 beers and some liquor" approximately three times a week, and he admitted one blackout from his alcohol consumption. He also admitted using amphetamines three times a week. (GE 4 at 103, 109, 111, 114, 116; Tr. 52)

Applicant's treatment included individual and group counseling. His individual therapist reported the following:

The client reported his longest period of sobriety was 15-20 years [or] 2002-2022. The client reported he just did not use. The client reported he relapsed because he started a new job that impacted his sleep scheduled [sic] along with being able to spend time with his family. The client reported some family members were using meth and convinced him to use it in order to be able to stay awake. The client reported he did it a few times and thought he could hide it from his wife. The client reported after some time his wife caught on that he started using again. The client reported this is his

first time in detox. The client reported this is his first time in treatment. (GE 4 at 117)

During his initial psychological evaluation at NL, Applicant reported that he used methamphetamine twice a week during the two months prior to his treatment. He initially was able to hide his use from his wife, but his use later increased to daily, and his wife learned of his methamphetamine use. He was diagnosed with (1) major depressive disorder, moderate; (2) amphetamine-type substance use disorder – moderate; and (3) alcohol use disorder – severe. Applicant signed acknowledgements of the diagnoses on multiple occasions during his treatment at NL. He tested negative for illegal drugs during his treatment at NL. (GE 4 at 280-281; GE 5 at 3-6, 18)

Discharge records from NL confirm that Applicant successfully completed the treatment program. His insight and prognosis were found to be poor, in part because he justified his use of methamphetamine as necessary for his overnight shifts and wanting to spend time with his family. The clinicians noted that he “appeared codependent and easily triggered by his family.” He was recommended to participate in a 12-step sobriety support program and to obtain a sponsor. At the hearing, Applicant denied being advised to abstain from alcohol, to attend Alcoholics Anonymous (AA) meetings, and to obtain a sponsor. (GE 4 at 285; GE 5 at 8; Tr. 64-65)

Following his discharge from NL, Applicant transitioned to a residential treatment facility (AR) “to implement his relapse prevention skills for substance use dependence.” He testified that this residential program focused on identifying and coping with triggers for one’s addictions. He admitted that both alcohol and drug issues were discussed during treatment at AR. He testified that he completed the AR treatment program, and he denied any diagnoses or aftercare recommendations. (GE 4 at 275, 315; Tr. 57, 59-63)

At the hearing, Applicant repeatedly testified that he only used methamphetamine twice and marijuana once, all prior to his September 2021 drug screening. He averred that these occasions were the first time in his life he had ever used illegal drugs. He disputed the NL treatment records notations stating that his methamphetamine use began prior to his marital separation (July 2021) and that his six-month period of methamphetamine use contributed to his separation. He also disputed the NL records notations concerning his methamphetamine use three times a week for two or three months ending in March 2022. When confronted about the inconsistencies in the timelines of his testimony, the positive drug screening, and his treatment records, he explained that he had used methamphetamine and marijuana once each prior to the September 2021 screening, and then used methamphetamine once days prior to his entry into drug treatment. Applicant testified that he twice used methamphetamine and that on each occasion he took “two puffs,” accounting for the four total uses noted in the records. He denied ever using Ecstasy. (Tr. 68-80, 83-84, 98)

Applicant denied experiencing any withdrawal symptoms, despite the NL records stating that he repeatedly experienced withdrawal symptoms. He denied being aware that he had been diagnosed with amphetamine-type substance use disorder. He obtained the

methamphetamine and the marijuana from his brother, with whom he resided at the time. He testified that he has not had contact with his brother in about a year. At the time of their last contact, his brother was still using drugs, and he had previously sold methamphetamine and marijuana. (Tr. 68-80, 83-84, 98)

At the hearing, Applicant admitted that he tested positive for methamphetamine during a court-ordered drug screening a second time, in about January 2022. He claimed that the hair-follicle test resulted in a positive due to the first use (prior to September 2021). After the second positive test, he used methamphetamine once more prior to attending treatment. He is subject to random drug screenings with his current employer; however, he has not taken any drug tests since leaving drug treatment in April 2022. (Tr. 85-93)

In his Answer and at the hearing, Applicant disputed the basis for the alcohol use disorder diagnosis. He testified that his treatment at NL was focused on his substance use and not alcohol use. He averred that he had voluntarily sought treatment at NL because he had failed the hair-follicle test in September 2021 during the custody proceedings. He claimed that H, his third ex-wife, had also tested positive for drugs, and he was concerned that if he did not participate in drug treatment that he and H may both lose custody of their child. He does continue to consume alcohol ("maybe a couple of drinks a week") but denied any problematic alcohol consumption since treatment at NL. (Answer; Tr. 52-53, 56-58, 66)

After the hearing, Applicant participated in a one-hour telehealth substance use assessment in September 2025. According to the assessment, the clinician relied exclusively on Applicant's statements and did not review any treatment records or conduct diagnostic testing. Applicant reported his drug treatment, his one-time use of marijuana, and his one-time use of methamphetamine. He denied any history of physical, mental, or sexual abuse, despite several references in the NL records. He disclosed prior alcohol or drug treatment in March 2001. At the time of the clinical interview, Applicant was not participating in any sobriety-support programs. The clinician concluded that Applicant did not meet the criteria for an alcohol or substance use disorder, did not recommend any treatment, and offered a good prognosis. (AE B)

## **Personal Conduct**

The SOR alleges personal conduct security concerns arising from Applicant's falsifications and omissions during the background security investigation. SOR ¶ 1.n. cross-alleges Applicant's aforementioned drug involvement and criminal conduct as personal conduct security concerns.

**SOR ¶ 1.a.** On April 19, 2022, Applicant certified and submitted an Electronic Questionnaire for Investigations Processing (e-QIP). Under Section 22 – Police Record, he responded "NO" to the following queries:

In the last seven (7) years have you been issued a summons, citation, or ticket to appear in a criminal proceeding against you?

In the last seven (7) years have you been arrested by any police officer, sheriff, marshal or any other type of law enforcement official?

In the last seven (7) years have you been charged, convicted, or sentenced of a crime in any court? (GE 1)

**SOR ¶¶ 1.b.-1.c.** Under Section 23 – Illegal Drugs or Drug Activity, Applicant responded “NO” to the following queries:

In the last seven (7) years, have you illegally used any drugs or controlled substances? Use of a drug or controlled substance includes injecting, snorting, inhaling, swallowing, experimenting with or otherwise consuming any drug or controlled substance.

Have you EVER been ordered, advised, or asked to seek counseling or treatment as a result of your illegal use of drugs or controlled substances?

Have you EVER voluntarily sought counseling or treatment as a result of your use of a drug or controlled substance? (GE 1)

**SOR ¶¶ 1.d.-1.f.** On July 7, 2022, Applicant certified and submitted an updated e-QIP. He responded “NO” to all of the queries under Section 22 and 23, which mirror the questions from the April 2022 e-QIP, all quoted above, verbatim. On the July 2022 e-QIP, he reported that he had been employed as a field technician for a DOD contractor since May 2022. (GE 2)

On September 6, 2022, Applicant was interviewed by an authorized investigator on behalf of the Office of Personnel Management (OPM). During this interview, Applicant admitted that he had received three court summonses in the previous seven years related to his child-support obligation. He also admitted that he and H had a physical altercation. He was arrested and charged with assault, and a restraining order was placed against him. He explained that he was later charged for removing an ankle-monitoring device and was jailed for seven days. He claimed the probation violation charge was later dismissed due to a technological error with the monitoring device and the assault charge was dismissed due to self-defense. He stated that he did not list the assault or probation-violation charges on his e-QIPs because the charges had been dismissed. (GE 3)

At the hearing, Applicant testified that he omitted his 2018 criminal charges because he believed that the e-QIP queries were limited to three years instead of seven years. He did not disclose his illegal use of marijuana and methamphetamine because he did not think that his illegal drug use was “a big deal.” He also claimed that he did not disclose his drug treatment because he believed he was only required to list “court-ordered” treatment. (Tr. 94-99)

**SOR ¶ 1.g.** During Applicant's September 2022 OPM interview, after discussing the physical altercation with H, he expressly denied any other criminal summons, arrests, charges, or convictions in the last seven years. The investigator then confronted Applicant about several arrests and charges including: (1) a July 2018 assault charge; (2) a July 2018 contempt of court charge; (3) an August 2018 contempt of court charge; (4) a September 2018 probation violation; (5) a May 2008 contempt of court charge; (6) a May 2008 insufficient fund charge; (7) a November 2008 insufficient funds charge; and (8) a January 2009 failure to appear charge. Applicant explained that the July and August 2018 charges were the offenses previously discussed, related to the altercation. He denied the September 2018 offense. (GE 3)

**SOR ¶ 1.h.** During the September 2022 OPM interview, Applicant stated that he used marijuana once in early 2021, and he disclosed no further illegal drug use. At the hearing, he explained that he did not list this illegal drug use on his e-QIP(s) "for fear of getting in trouble." He admitted that he deliberately withheld the information about his methamphetamine use during his September 2022 interview because "it just seemed worse." (GE 3; Tr. 82, 99)

**SOR ¶¶ 1.i.-1.j.** During the January 2023 OPM interview, Applicant admitted that he used illegal drugs from about December 2021 to March 2022, as he struggled with his familial issues. He said that he used marijuana once and used methamphetamine four times during this period. Applicant's representations as to the frequency of his methamphetamine use significantly differed from his reported use during treatment. Upon confrontation, Applicant admitted that he tested positive for methphetamines during a court-ordered drug screening in January 2022. The drug screening had been required during child-custody proceedings. Upon questioning from the OPM investigator, Applicant initially denied any court-ordered or voluntary drug treatment. He then admitted voluntarily attending alcohol and drug treatment at a facility (NL) from March 2022 to April 2022. He admitted that he deliberately omitted his drug treatment on his e-QIP(s) because he was ashamed and did not believe the information would be discovered during the investigation. At the hearing, he admitted telling the OPM investigator in January 2023 that he had deliberately omitted the information about his drug treatment due to shame. He admitted that he omitted his illegal drug use and drug treatment on his e-QIP because he was concerned it would negative impact his clearance eligibility. (GE 3; Tr. 95-99)

**SOR ¶¶ 1.k.-1.m.** On March 13, 2024, Applicant responded to DOHA interrogatories regarding his two OPM interviews and his drug involvement. He adopted the summaries of the September 2022 and January 2023 OPM interviews without any corrections or additions. In his response to the interrogatories, Applicant was required to list his illegal drug use since 2005. He listed a one-time use of marijuana in December 2021 and twice using methphetamines in December 2021. He explicitly denied ever using methamphetamine daily or near-daily for a period of 14 days or more. He denied any other illegal drug use since 2005, including Ecstasy and cocaine. He admitted attending drug and alcohol treatment at NL from March 11, 2022 to March 21, 2022 and at a second facility (AR) from March 21, 2022 to April 21, 2022. (GE 3)

During the hearing, Applicant denied any arrests since 2019. Recognizing that his family interactions were triggers and concerned about his brother's drug involvement, he has disassociated himself from his brother and mother for over a year. (Tr. 47, 101)

### **Whole Person**

Applicant submitted eight character-reference letters in support of his clearance eligibility. The president of the DOD contractor with which Applicant is employed, his current supervisor, his former supervisor, and a co-worker praised Applicant's strong work ethic, integrity, professionalism, trustworthiness, dependability, work performance, high moral character, and adherence to his security responsibilities. Two physical security officers at the Naval facilities where Applicant works attested to his dedication, work ethic, and trustworthiness. (Answer; AE A)

Applicant's step-uncle acknowledged Applicant's difficult upbringing and noted his responsibility, work ethic, dedication, and initiative. Applicant's ex-wife praised his work ethic, integrity, and reliability. Applicant testified that the president of the DOD contractor was aware of his drug use, drug treatment, and falsifications; however, none of the eight references indicates any awareness of Applicant's illegal drug use or the substance of the SOR allegations. (AE A; Tr. 92-93)

Applicant testified that he has received promotions and pay raises while at his current employer. (Tr. 103)

### **Policies**

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

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

A person who seeks access to sensitive information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to sensitive information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard sensitive information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of sensitive information.

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

## **Analysis**

### **Guideline E: Personal Conduct**

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

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. . . .

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following disqualifying conditions are potentially applicable in this case:

(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;

(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;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (2) any disruptive, violent, or other inappropriate behavior; and
- (3) a pattern of dishonesty or rule violations.

On his April 2022 and July 2022 e-QIPs, in Section 22, Applicant omitted information about his 2018 arrests, assault, battery, contempt charges, probation, and probation violation. During his September 2022 security interview, he explained that he did not disclose this information because the charges had been dismissed. At the hearing, he explained that he mistakenly believed the query was limited to the previous three years. Applicant's explanations are both inconsistent and not credible. Section 22 specifically inquires about arrests and charges, independent of the disposition of the offenses. AG ¶ 16(a) applies as to SOR ¶¶ 1.a. and 1.d.

On his April 2022 and July 2022 e-QIPs, Applicant omitted information about his marijuana and methamphetamine use and his drug treatment. During his September 2022 interview, he claimed to have only used marijuana on one occasion and no other illegal drugs. He also initially denied any drug treatment during his January 2023 OPM interview. He admitted these falsifications later during this interview and at the hearing. AG ¶ 16(a) applies as to SOR ¶¶ 1.b., 1.c., 1.e., and 1.f. AG ¶ 16(b) applies as to SOR ¶¶ 1.h. and 1.j.

As to SOR ¶ 1.g., Applicant discussed his 2018 assault and battery charges and the related contempt charges and probation violation during his September 2022 OPM interview; however, some of the dates and charges were muddled. I find that the mistakes and incorrect information provided by Applicant about these events during the September 2022 OPM interview do not amount to a material falsification under AG ¶ 16(a). SOR ¶ 1.g. is found for Applicant.

Applicant has provided inconsistent information about his illegal drug use on multiple occasions. During his January 2023 OPM interview, he admitted using marijuana once and using methamphetamine four times between December 2021 and March 2022. In his March 2024 response to the interrogatories, he reported that he used methamphetamine twice in December 2021. The NL treatment records – based upon Applicant's reporting during the pre-initial assessment, initial assessment, psychological evaluation, and individual counseling – state that he used methamphetamine as often as daily or near-daily for about six months, contributing to his separation in July 2021. According to the treatment records, Applicant used methamphetamine to stay awake during his night shift and to spend time with his family. He tested positive for methamphetamine in September 2021 and January 2022.

At the hearing, Applicant claimed that he only used methamphetamine twice – prior to the September 2021 test and again in March 2022, prior to his treatment. From the treatment records, it appears Applicant signed acknowledgements of the diagnoses – (1) amphetamine-type substance use disorder – moderate and (2) alcohol use disorder – severe – on multiple occasions. It strains credulity that several NL clinicians would err as to the frequency of Applicant's methamphetamine use and his experiencing withdrawal symptoms and that Applicant would acknowledge the diagnoses if he believed them to be unfounded. I did not find Applicant's testimony – that he only used methamphetamine twice – to be credible. AG ¶ 16(b) applies as to SOR ¶ 1.i. AG ¶ 16(a) applies as to SOR ¶¶ 1.k. and 1.m.

The NL treatment records make one reference to Applicant's use of Ecstasy. Every other recitation of his illegal drug history, within the treatment records, references marijuana and methamphetamine and not Ecstasy. Applicant repeatedly denied any use of Ecstasy, and there is no other evidence in the record of such use. I find for Applicant as to SOR ¶ 1.l.

SOR ¶ 1.n. cross-alleges the security concerns in SOR ¶¶ 3.a.-3.c. and SOR ¶¶ 4.a.-4.h. Because I have concluded that the credible adverse information is sufficient under Guidelines E, H, and J for an adverse determination, AG ¶ 16(c) is inapplicable. Similarly, Applicant's illegal drug use, failed drug screening, and criminal conduct were explicitly covered under Guidelines H and J, rendering AG ¶ 16(d) duplicative. Therefore, I find for Applicant as to SOR ¶ 1.n.

The following personal conduct mitigating conditions under AG ¶ 17 are potentially relevant:

- (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.

At the hearing, Applicant admitted he deliberately omitted his illegal drug use and drug treatment on his e-QIPs, and he admitted initially denying any drug treatment during his January 2023 interview. He denied falsifying his e-QIP regarding his criminal arrests, and I did not find his explanation(s) credible. He admitted shame about his drug use and treatment, but I did not find his testimony about the frequency and span of his drug use to be credible. On two e-QIPs, during two security interviews, and in his response to DOHA interrogatories, Applicant failed to provide complete and candid responses to the queries about his drug involvement, treatment, and criminal conduct. Falsifications during the background security investigation raise significant security concerns as to Applicant's trustworthiness, judgment, and reliability, and he has not mitigated those concerns. None of the personal conduct mitigating conditions apply.

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

The security concern for drug involvement is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following are potentially applicable:

- (a) any substance misuse;
- (b) testing positive for an illegal drug; and
- (d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder.

Applicant admitted his illegal use of marijuana and methamphetamine and having tested positive for methamphetamine. The treatment records establish a period of at least six months of methamphetamine use and a diagnosis of amphetamine-type substance use disorder, moderate. AG ¶¶ 25(a), 25(b), and 25(d) apply.

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

(a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and

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

(1) disassociation from drug-using associates and contacts;

(2) changing or avoiding the environment where drugs were used; and

(3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

(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 professional.

As discussed above, Applicant provided inconsistent testimony about the frequency and span of his methamphetamine use. His claim that the two uses occurred prior to the September 2021 drug screening and prior to his March 2022 treatment does not conform to the narratives elsewhere. Criminal records from 2018 indicate that Applicant admitted that he and H were "experimenting with different drugs" prior to their altercation. The NL treatment records note that he used methamphetamine to stay awake for his night shift and that he had used for about six months prior to his separation (July 2021). Those records also note Applicant's poor prognosis as he was not addressing the underlying triggers for his illegal drug use and justified his use to stay awake for work. The records also recommend aftercare support through attendance at AA or NA meetings and by obtaining a sponsor. Applicant claimed to be unaware of his diagnosis and aftercare recommendations; however, he signed the diagnosis acknowledgements and reviewed the discharge plan with the staff.

I have considered Applicant's testimony that he has not used illegal drugs since March 2022 and that he has disassociated himself from drug users for at least a year. The post-hearing drug assessment relied exclusively on Applicant's one-hour clinical interview without the review of any treatment records. Furthermore, according to the assessment, Applicant admitted only one use of methamphetamine. I did not find this assessment or prognosis to be reliable.

While there is no record evidence of any drug involvement by Applicant since March 2022, I have serious doubts as to his credibility. I am not substituting a negative

credibility assessment as evidence of illegal drug use; however, doubts remain as to Applicant's trustworthiness, reliability, and judgment. Furthermore, he has not fulfilled the aftercare recommendations of NL. Applicant did not mitigate the drug involvement and substance misuse security concerns.

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

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

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

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

(d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social work) or alcohol use disorder.

During his intake assessment and throughout his treatment at NL, Applicant reported that he consumed "2-3 beers and some liquor" up to three times a week. He admitted having experienced one blackout. There is no further information about his alcohol consumption or any problems – criminal, personal, or professional – related to alcohol. Applicant's NL treatment, as reflected in the treatment records, primarily focused on his use of methamphetamines, and there is little or no discussion about his alcohol consumption. Upon his discharge from NL, Applicant was diagnosed with alcohol use disorder – moderate. There is no discharge plan recommendation to abstain from alcohol. While I found the NL treatment records reliable regarding the history of Applicant's methamphetamine use, I did not find the alcohol use disorder diagnosis to be reliable or supported by the record evidence as a whole. Therefore, I conclude that the record evidence did not establish the alleged alcohol consumption security concerns.

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

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

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

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

Applicant was arrested and charged with several misdemeanor offenses, as outlined and established in SOR ¶ 4.a.-4.h. He admitted the bounced checks, pled no contest to the assault and battery charges, and admitted he contacted H while prohibited by the protective order. AG ¶ 31(a) and 31(b) apply.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially applicable:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and
- (d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

On its face, Applicant's criminal conduct occurred over seven years ago; however, Applicant deliberately and repeatedly lied on two security questionnaires, to two OPM investigators, and in his response to DOHA interrogatories. These falsifications violate 18 U.S.C. § 1001, a federal felony offense. Notwithstanding Applicant's favorable character references and outstanding performance at his current employment, this evidence of successful rehabilitation is undercut by his repeated and recent falsifications. Doubts persist as to Applicant's reliability, trustworthiness, or good judgment. Applicant did not mitigate the criminal conduct security concerns.

### **Whole-Person Concept**

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

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct;

(8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines E, H, G, and J, and the factors in AG ¶ 2(d) in this whole-person analysis.

Applicant has thrived in his new career with a DOD contractor. The character references praised his work ethic, integrity, professionalism, trustworthiness, dependability, and work performance; however, the reference letters did not indicate awareness of the security concerns alleged in the SOR. Notwithstanding the favorable character evidence, Applicant's falsifications and lack of candor throughout the background security investigation and clearance process do not reflect the responsibility and good judgment of one entrusted to safeguard sensitive and classified information.

This decision should not be construed as a determination that Applicant cannot obtain a security clearance in the future. With candor and forthrightness throughout the clearance process, Applicant may overcome the aforementioned concerns. The record evidence did not establish the alcohol consumption security concerns. Applicant did not mitigate the personal conduct, drug involvement, and criminal conduct security concerns.

### **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 E:	AGAINST APPLICANT
Subparagraphs 1.a.-1.f.:	Against Applicant
Subparagraph 1.g.:	For Applicant
Subparagraphs 1.h.-1.k.:	Against Applicant
Subparagraph 1.l.:	For Applicant
Subparagraph 1.m.:	Against Applicant
Subparagraph 1.n.:	For Applicant
Paragraph 2, Guideline G:	FOR APPLICANT
Subparagraph 2.a.:	For Applicant
Paragraph 3, Guideline H:	AGAINST APPLICANT
Subparagraphs 3.a.-3.d.:	Against Applicant
Paragraph 4, Guideline J:	AGAINST APPLICANT

Subparagraphs 4.a.-4.h.:

Against Applicant

**Conclusion**

In light of all of the circumstances presented by the record in this case, I conclude that it is not clearly consistent with the interests of national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Eric H. Borgstrom  
Administrative Judge