



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 25-00447

Appearances

For Government: Brian Farrell, Esq., Department Counsel
For Applicant: *Pro se*

12/31/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guidelines I (Psychological Conditions), H (Drug Involvement and Substance Misuse), G (Alcohol Consumption), and E (Personal Conduct). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on May 18, 2022. On April 7, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines I, H, G, and E. The DCSA acted under Executive Order (Exec. Or.) 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) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on April 21, 2025, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on May 15, 2025. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He received the FORM on June 2, 2025, and did not respond. The case was assigned to me on December 2, 2025.

Findings of Fact

In Applicant's answer to the SOR, he admitted all the allegations in SOR ¶¶ 1 (Guideline I), ¶ 2 (Guideline H), and ¶ 3 (Guideline G). He denied the allegations in SOR ¶ 4 (Guideline E), except for SOR ¶ 4.d (cross-alleging SOR ¶¶ 1, 2, and 3), which he admitted. His admissions are incorporated in my findings of fact.

Applicant is a 39-year-old test and measurement specialist employed by a defense contractor since May 2022. He has attended college courses but has not received a degree. He served in the U.S. Marine Corps from July 2007 to March 2008 and received an other than honorable discharge. He married in February 2015 and has no children. He reported in his SCA that he received a security clearance while in the Marine Corps. During an interview with a security investigator in June 2022, he stated that his security clearance was suspended in October 2008. (GX 4 at 14) DCSA records reflect that his clearance was revoked on October 7, 2008 (GX 11)

Under Guideline G, the SOR alleges and Applicant admitted that he was arrested for assault after consuming alcohol in 2004 or 2005, was arrested twice for driving under the influence in 2008 and 2012, and was sent home from his place of employment in October 2019 for smelling of alcohol. (SOR ¶¶ 3.a-3.g) During the June 2022 security interview, Applicant told the investigator he had been sent home after he had been drinking beer and mixed drinks the night before and drinking a beer in the morning before coming to work. When he was evaluated by a psychologist on January 4, 2025, he reported that he had been a heavy drinker of alcohol but that he stopped drinking on December 30, 2024, about a week before the evaluation. The record does not reflect whether he resumed drinking at any time after the evaluation. In the FORM, Department Counsel asserted that his sobriety for one week prior to the evaluation fell short of a commitment to sobriety. Applicant had an opportunity to update his record of sobriety or dispute Department Counsel's assertion when he received the FORM, but he did not respond to it.

Under Guideline H, the SOR alleges that Applicant used marijuana from 1998 to January 2025 (SOR ¶ 2.a) used hallucinogenic mushrooms from November 1999 to January 2025 (SOR ¶ 2.b); used cocaine from February 2000 to March 2024 (SOR ¶ 2.c); used methamphetamines from July 2001 to October 2015 (SOR ¶ 2.d); and used heroin from January 2014 to January 2015 (SOR ¶ 2.e); and was arrested in 2005 for possession of marijuana while driving and disturbing the peace. (SOR ¶ 2.f). Applicant admitted all these allegations. During his evaluation by a psychologist in January 2025, he admitted that he had used marijuana "thousands of times," most recently a week before the evaluation. He admitted that he had consumed mushrooms "hundreds of times, most

recently about two months before the evaluation,” had used cocaine “thousands of times,” most recently a year before the evaluation, and had used methamphetamines 50-100 times, most recently about a year before the evaluation. His admitted use of methamphetamines during the psychological evaluation was more recent than alleged in the SOR and more recent than he admitted in his response to interrogatories.

Applicant’s possession of marijuana in 2005, alleged in SOR ¶ 2.f, is included in the allegation in SOR ¶ 2.a. Operating a motor vehicle and disturbing the peace are not acts that are separately cognizable under Guideline H, although operating a vehicle while impaired by marijuana is an aggravating factor. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant’s favor. ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). Accordingly, I have resolved SOR ¶ 2.f in Applicant’s favor.

Under Guideline I, the SOR alleges and Applicant admitted that he was diagnosed with schizophrenia twice, in June 2022 and May 2023 (SOR ¶¶ 1.b and 1.c), and that he was evaluated by a psychologist in January 2025 and diagnosed with a thought disorder, likely schizophrenia or substance or medication-induced psychotic disorder. (SOR ¶ 1.a) Applicant has been receiving mental health care since March 2022. He has been diagnosed with schizophrenia and is being treated with medications. He believes that the medications are working, although they make him feel “numb” at times. During an interview with a security investigator in June 2022 and in response to DCSA interrogatories in May 2024, he admitted that he was diagnosed with schizophrenia, but he told the investigator that he disagreed with the diagnosis. (GX 4 at 9; GX 5)

In January 2025, DCSA requested another psychological evaluation for Applicant. A licensed psychologist concluded that Applicant’s use of alcohol has created significant functional impairment. The psychologist concluded that Applicant was being treated successfully for schizophrenia, but his thought process and content are both “unusual if not bizarre.” He concluded that Applicant suffers from a thought disorder, likely unspecified schizophrenia or a substance or medication induced psychotic disorder. He commented: “While [Applicant’s] thought disorder is being treated successfully at this time, his dependence/abuse of alcohol and unprescribed drugs should be considered untreated. Accordingly, it does not seem likely that he will remain free of conditions that could impair his judgment, reliability, or trustworthiness.” (GX 7)

Under Guideline J, the SOR cross-alleges the conduct alleged in SOR ¶ 2.f and 3.c through 3.f as criminal conduct. It also alleges and Applicant admits that in 2004 or 2005, he was charged with misdemeanor assault after he broke a person’s jaw after consuming alcohol and marijuana.

Under Guideline E, SOR ¶ 5.a alleges that Applicant was fired in February 2022 for sleeping at work. (SOR ¶ 5.a) The allegation was based on a report by “someone from the work site.” During an interview with a security investigator in June 2022, Applicant denied sleeping on duty but admitted that he was sitting in a chair with his head resting on the chair back. (GX 4 at 6-7) Applicant’s heavy alcohol consumption, including consumption before going to work, make it likely that he was sleeping. This allegation is

established, although the alleged conduct has minimal probative value in the adjudication of Applicant's qualification to hold a security clearance.

SOR ¶ 5.b alleges that Applicant was fired for displaying acts of aggression and inappropriate behavior toward a fellow employee by confronting him with his fists and inviting him to go outside and fight. Applicant denied this allegation. During an interview with a security investigator in June 2022, he stated that the fellow employee made an offensive comment, and he invited the employee to go outside to talk about it.

SOR ¶ 5.c alleges that Applicant was discharged from the U.S. Marine Corps with an other than honorable discharge in May 2010, based on a unauthorized absences between September 2008 and October 2009. He denied this allegation and asserted that he was honorably discharged for medical reasons after he underwent knee surgery. (GX 4 at 8) However, a DCSA military discharge records check reflects an other than honorable discharge (GX 9) and a record of nonjudicial punishment for unauthorized absence. (GX 10)

SOR ¶ 5.d cross-alleges the conduct alleged in SOR ¶¶ 2.a through 2.f; 3.a through 3.g; 4.a; and 4.b. Applicant admitted this allegation.

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

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

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan* at 531. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record.” See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is “less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge’s] finding from being supported by substantial evidence.” *Consolo v. Federal Maritime Comm’n*, 383 U.S. 607, 620 (1966). “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan* at 531.

Analysis

Guideline I, Psychological Conditions

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

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.

The following disqualifying conditions under this guideline are established by Applicant's admissions and the evidence in the FORM:

AG ¶ 28(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; and

AG ¶ 28(b): an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness.

The following mitigating conditions are potentially applicable:

AG ¶ 29(a): the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

AG ¶ 29(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;

AG ¶ 29(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;

AG ¶ 29(d): the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

AG ¶ 29(e): there is no indication of a current problem.

None of these mitigating conditions are established. Applicant has been receiving treatment since March 2022, but he has not demonstrated "ongoing and consistent compliance with a plan." He has not received a favorable prognosis. The psychologist concluded that Applicant's "thought disorder" is being treated successfully, but his dependence on and abuse of alcohol and unprescribed drugs are untreated, making it unlikely that he will remain free of conditions that could impair his judgment, reliability, or trustworthiness.

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline 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 following disqualifying conditions are established by Applicant's admissions and the evidence in the FORM:

AG ¶ 25(a): any substance misuse (see above definition); and

AG ¶ 25(c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

The following mitigating conditions are relevant:

AG ¶ 26(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;

AG ¶ 26(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; and

AG ¶ 26(d): satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

AG ¶ 26(a) is established for Applicant's use of heroin that ended in 2015 and is not recent. It is not established for his recent use of marijuana until January 2025, use of hallucinogenic mushrooms until January 2025, use of cocaine until March 2024.

AG ¶ 26(b) is not established for Applicant's drug involvement. He provided no evidence of disassociation from users and contacts, no evidence of a change of environment, and no statement of intent to abstain from drug involvement and substance misuse.

AG ¶ 26(d) is not established. Applicant provided no evidence that he completed a prescribed drug treatment program.

Guideline G, Alcohol Consumption

The concern under this guideline 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 following disqualifying conditions under this guideline are established by Applicant's admissions and the evidence in the FORM:

AG ¶ 22(a): alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder;

AG ¶ 22(b): alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, drinking on the job, or jeopardizing the welfare and safety of others, regardless of whether the individual is diagnosed with alcohol use disorder; and

AG ¶ 22(c): habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

The following mitigating conditions are potentially applicable:

AG ¶ 23(a): so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

AG ¶ 23(b): the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

AG ¶ 23(c): the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and

AG ¶ 23(d): the individual has successfully completed a treatment program along with any required aftercare and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

None of these mitigating conditions are established. Applicant's alcohol abuse is recent, frequent and has continued for a long time. He has not fully acknowledged his problem with alcohol and presented no evidence of counseling or treatment. During his psychological evaluation on January 4, 2025, he told the psychologist that he had stopped drinking a week before the evaluation. In the FORM, Department Counsel asserted that his excessive drinking was likely to recur. Applicant had an opportunity to challenge that assertion when he received the FORM, but he did not respond to it.

Guideline E, Personal Conduct

The security 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. . . ."

Applicant's admissions and the evidence in the FORM establish the following disqualifying conditions under this guideline:

AG ¶ 16(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;

AG ¶ 16(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 . . . any disruptive, violent, or other inappropriate behavior; and

AG ¶ 16(e): personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes . . . engaging in activities which, if known, could affect the person's personal, professional, or community standing.

The following mitigating conditions are potentially applicable:

AG ¶ 17(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;

AG ¶ 17(d): the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

AG ¶ 17(e): the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

AG ¶ 17(c) is established for Applicant's other than honorable discharge from the U.S. Marine Corps in May 2010. His discharge for misconduct was not "minor" but it occurred long ago. This mitigating condition is not established for his alcohol-related offenses alleged under Guideline G. Although they happened long ago, they were the beginnings of a pattern of alcohol-related misconduct that continued until December 2024. It is not established for his sleeping at work and his aggressive behavior toward a coworker. These incidents were arguably "minor," but they were part of a pattern of inappropriate behavior, and the evidence falls short of establishing that they are unlikely to recur.

AG ¶¶ 17(d) and 17(e) are not established. Although Applicant is receiving treatment for his mental disorders, he has not shown that they are unlikely to recur. He declared that he had stopped drinking one week before his psychological evaluation in January 2025, but insufficient time has passed to establish that he will refrain from drinking, that his inappropriate behavior is unlikely to recur, and to demonstrate that he is no longer vulnerable to exploitation, manipulation, or duress.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate

an applicant's security eligibility by considering the totality of the applicant's conduct and all the relevant circumstances. An 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.

I have incorporated my comments under Guidelines I, H, G, J, and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003). After weighing the disqualifying and mitigating conditions under Guidelines I, H, G, J, and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his psychological conditions, drug involvement, alcohol consumption, criminal conduct, and personal conduct.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline I (Psychological Conditions): **AGAINST APPLICANT**

Subparagraphs 1.a-1.c: **Against Applicant**

Paragraph 2, Guideline H (Drug Involvement and Substance Misuse): **AGAINST APPLICANT**

Subparagraphs 2.a-2.c: **Against Applicant**

Subparagraph 2.d-2.f: **For Applicant**

Paragraph 3, Guideline G (Alcohol Consumption): **AGAINST APPLICANT**

Subparagraphs 3.a-3.g: **Against Applicant**

Paragraph 4, Guideline J (Criminal Conduct): **AGAINST APPLICANT**

Subparagraphs 4.a and 4.b: **Against Applicant**

Paragraph 5, Guideline E (Personal Conduct):	AGAINST APPLICANT
Subparagraphs 5.a and 5.b:	Against Applicant
Subparagraph 5.c:	For Applicant
Subparagraph 5.d:	Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge