



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



In the matter of:

Applicant for Security Clearance

)
)
)
)
)

ISCR Case No. 24-02441

Appearances

For Government:
John Renehan, Esquire, Department Counsel

For Applicant:
Pro se

01/07/2026

Decision

CEFOLA, Richard A., Administrative Judge:

Statement of the Case

On April 16, 2024, Applicant submitted a security clearance application (SCA). On July 2, 2025, in accordance with DoD Directive 5220.6, as amended (Directive), the Department of Defense issued Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns under Guidelines E and J. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the Department of Defense on June 8, 2017.

Applicant submitted an undated answer to the SOR in writing (Answer), and requested a hearing before an administrative judge. The case was assigned to me on September 8, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on September 9, 2025. I convened the hearing as scheduled on November 17, 2025. The Government offered Government Exhibits (GXs) 1 through 10, which were admitted without objection. Applicant testified on his own behalf and offered Applicant Exhibit (AppX) A, which was admitted into evidence without objection. DOHA received the transcript of the hearing (TR) on December 3, 2025. The record was left open for the receipt of additional evidence. On December 10, 2025, AppX B was submitted, and received without objection. On December 15, 2025, Applicant also submitted a closing statement. The record closed at that time.

Findings of Fact

Applicant admitted each of the allegations in the SOR. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is a 42-year-old employee of a defense contractor. He has been employed with the defense contractor since July of 2024. Applicant does not hold a security clearance. He is divorced and has no children. (TR at page 6 lines 10~23, at page 16 line 19 to page 17 line 18, and GX 1 at pages 5 and 13.)

Guideline E: Personal Conduct

1.a. and 1.b. Applicant admits that he “lied a little bit . . . but was wrong for lying” when he filled out his April 2024 SCA. In answer to “Section 22 – Police Record. In the past seven (7) years,” he responded, “No;” even though, in November of 2021, he pled guilty to a misdemeanor “Facilitation to Commit Aggravated Assault, Deadly Weapon/Dangerous Instrument,” which is alleged as 2.a, below.

Applicant also responded “No,” in answer to “Section 22 – Police Record (EVER) . . . Have you EVER been charged with an offense involving alcohol or drugs”; even though he was charged with Possession of Marijuana in 2017, he was charged twice with Driving Under the Influence Liquors/Drugs/Vapors DUI in 2011 and again in 2012, he was charged with Possession of Marijuana for Sale in 2008, and finally he was charged with Drugs/Possession of Marijuana in 2007, as stated in allegations 2.b, 2.c, 2.e, 2.h, and 2.i, below. (TR at page 42 line 4 to page 44 line 20, GX 1 at page 24, and GX 2 at page 7.) I find these to be willful falsifications.

Guideline J: Criminal Conduct

2.a. Applicant admits that in November of 2021, about four years ago, he pled guilty to a misdemeanor "Facilitation to Commit Aggravated Assault, Deadly Weapon/Dangerous Instrument." (TR page 18 line 13 to page 27 line 13, GX 3 at page 16, Gx 4 at page 8, and GX 5 at pages 16~18.)

2.b. Applicant admits that in August of 2017, about eight years ago, he was charged with Possession of Marijuana. He was on the passenger side of a motor vehicle where the marijuana was found. It is unclear what happened as a result of this traffic stop, but Applicant quit using marijuana, soon thereafter. (TR at page 27 line 14 to page 30 line 17, and GX 3 at page 6.)

2.c. and 2.e. Applicant admits that in September of 2011, and again in December 2012, about 13 years ago, he was arrested for and charged with two separate DUIs. He attended "20-something classes" given by "Mothers Against Drunk Drivers." Applicant no longer drives after consuming alcohol. (TR at page 30 line 18 to page 35 line 14.)

2.d. Applicant admits that in April of 2012, also about 13 years ago, he got into a domestic dispute with his child's unmarried mother. They got into their respective motor vehicle and crashed into each other's bumpers. Applicant was charged with "Criminal Damage – Intentional Vandalism." It is unclear what, if anything, resulted from this charge. (TR at page 35 line 15 to page 37 line 15.)

1.f. Applicant admits that in April of 2009, about 16 years ago, he was arrested and charged with Disorderly Conduct. Due to the passage of time, Applicant is unsure of the circumstances regarding this incident.

1.g, 1.i and 1.j. Applicant admits that in April of 2007, about 18 years ago, he was charged with Drugs/Possession of Marijuana (Near School Grounds). Applicant twice-failed to appear in court; and as a result, in March of 2009 he was arrested and charged with Violation of Promise to Appear. It is unclear from the record what resulted from these criminal incidents.

1.h. Applicant admits that in October of 2008, about 17 years ago, he was arrested, and subsequently pled guilty to Solicitation to Possess Marijuana for sale.

1.k. and 1.l. Applicant admits that in January of 2003, and again in July of 2006, he was twice arrested for Violations of Promises to Appear. Because of the passage of time, 19 and 22 years respectively, Applicant is unsure of the circumstances that caused him to be twice arrested. (TR at page 39 line 4 to page 42 line 3.)

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 (AG) 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 that "[a]ny 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, an "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 applying for national security eligibility seeks to enter 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, "[a]ny 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

Guideline E: Personal Conduct

The security concern relating to the guideline for Personal Conduct 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

- (a) refusal, or failure without reasonable cause, to undergo or cooperate with security processing, including but not limited to meeting with a security investigator for subject interview, completing security forms or releases, cooperation with medical or psychological evaluation, or polygraph examination, if authorized and required; and
- (b) 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.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. One is clearly 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.

Applicant admittedly “lied” in his responses to questions on his April 2024 SCA. The evidence is sufficient to raise these disqualifying conditions. None of the mitigating conditions apply. Personal Conduct is found against Applicant.

Guideline J: Criminal Conduct

AG ¶ 30 sets forth the security concerns pertaining to criminal conduct:

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

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

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness; and

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.

Applicant has a plethora of criminal offenses stretching from January of 2003 to November of 2021, a period of about 18 years. The evidence establishes the above two disqualifying conditions.

AG ¶ 32 provides two conditions that could mitigate the above security concerns raised 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; 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.

Considering there are twelve criminal conduct incidents, and a clear pattern of criminal behavior, not enough time has elapsed for Applicant to be now found trustworthy. The evidence does not establish mitigation under either of the above conditions.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant's 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.

According to 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 applicable guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines E and J in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment. Applicant is respected in the workplace. (AppXs A and B.)

Overall, the record evidence leaves me with questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Personal Conduct and Criminal Conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraphs 1.a. and 1.b:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a~2.l:	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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Richard A. Cefola
Administrative Judge