



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



Appearances

For Government: Lauren Shure, Esq., Department Counsel
For Applicant: Sean Rogers, Esq., National Security Law Firm

01/26/2026

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On June 5, 2019, Applicant submitted a security clearance application (e-QIP). On May 3, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCAS CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline K, Handling Protected Information; and Guideline E, Personal Conduct. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on August 17, 2024, and requested a hearing before an administrative judge. The case was assigned to me on June 16, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on September 7, 2025, and the hearing was convened as scheduled on November 20, 2025. The Government offered twelve exhibits, referred to as Government Exhibits 1 through 12, which were admitted without objection. Applicant offered twenty-three exhibits, referred to as Applicant's Exhibits A through W, which were admitted without objection. Applicant testified on his own behalf. DOHA received the final transcript of the hearing (Tr.) on December 11, 2025.

Findings of Fact

Applicant is 58 years old. He has two ex-wives, Wife 1 and Wife 2. He has recently resumed his relationship with Wife 2. He has six children in total, which includes 4 step-children. He has a Master's degree, some work towards a PhD, and extensive military training. He is currently employed as a Systems Engineer. He is applying for a position with a defense contractor, who is currently sponsoring him for a security clearance in connection with his employment. Inconsistencies are noted between Applicant's DD214, (which states that he retired from the Air Force as a Master Sergeant E-7); and his testimony and the e-QIP that indicate he was commissioned in 2000, and became a Captain.) (Applicant's Exhibit C, Tr. pp. 27-28, and Government Exhibit 1, p.32.)

Guideline K – Handling Protected Information

The Government alleged that Applicant is ineligible for a clearance because he deliberately or negligently failed to comply with rules and regulations for handling protected information; which includes classified and other sensitive government information and proprietary information, and raises doubt about his trustworthiness, judgment, reliability, or willingness and ability to safeguard such information.

Applicant is a Veteran of the United States Air Force. He has twenty years of service from 1985 to 2005, and was then honorably discharged. From information on his DD214, he retired as an E-7. He currently receives a disability rating from the Veterans Administrative of 70 percent. During his military career he worked extensively with sensitive and classified information and held a Top Secret and Special Compartmented Information clearances.

In 2005, he transitioned from the military into civilian life and continued to work on sensitive and classified projects for defense contractors. Each year, he has continued to receive annual security briefings and training which includes how to properly store and secure sensitive and classified information. (Tr. p. 32.)

In 2010, while employed with a defense contractor and while holding a security clearance, Applicant deliberately moved documents containing classified information from his workplace and brought them home knowing that he was violating security regulations. Applicant placed the classified documents into his backpack to transport them. The documents he brought home were what he described as a large group of "Secret e-mails," consisting of what he considered to be more than 20 pages that he needed to go through. He stated that he intended to bring them into the corporate office, and to read them in a SCIF, but instead he somehow misplaced them, and they ended up in his garage. These documents remained improperly stored in his possession until they were discovered by FBI agents in approximately August 2016. (Government Exhibits 2 and 3.)

In 2011, Applicant inadvertently removed classified information from his workplace. Upon discovering the classified information, he burned the document in a fire at his home to get rid of it. Applicant knew that security policy required him to report this to his Facility Security Officer, but he chose not to do so because he was concerned that it may have an adverse impact on his security clearance and his employment. He testified that at the time he discovered the document he was not working for the same defense contractor that he worked for when he inadvertently removed the classified document. (Government Exhibits 2 and 3.)

An investigation into the 2010 matter was conducted by the FBI. (Government Exhibit 3.) When the FBI interviewed the Applicant, he stated that he had forgotten that he had taken the e-mails home. Applicant told the FBI that he believed that Wife 2 and her friends were framing him. Applicant also stated that he believed Wife 2 would have known that the e-mails were classified because he was probably reading them in bed and she saw the classified cover sheet. He believes Wife 2 took the e-mails when he was not looking and stashed them somewhere to use against him at a later time. He believes that her motivation for reporting him to the FBI was to get him fired so that he did not have the financial means to defend himself during a costly criminal trial and divorce proceedings. Applicant believes that Wife 2 had someone else call the FBI to report the Applicant, so that her name would not be on the report. During this investigation Applicant also admitted his inadvertent removal of classified information in 2011. (Government Exhibit 2.)

Following the FBI investigation in 2016, Applicant's security clearance was immediately suspended, and he was not allowed to go to work. Applicant admitted that he used bad judgment, and that he knew that he was not following proper security procedures. In doing so, he committed several security violations. Applicant acknowledged that he was clearly aware of the security policies and procedures, having received annual security briefings each year for over 30 years. He clearly did not follow security rules. There is no excuse for his misconduct.

Applicant testified that neither the FBI nor the Assistant U.S. Attorney ever charged him with any crime for his security violations. (Tr. p. 40-41.) The FBI eventually returned all of his electronic devices that they had searched, but they cleared and deleted all of Applicant's digital information. (Tr. p. 41.)

Guideline E – Personal Conduct

In each scenario discussed above, the Government alleges that Applicant's conduct shows poor judgment, unreliability, and untrustworthiness.

The Government alleges that in 2016, Applicant revealed his security clearance status and the nature of his work to at least one woman he met through an on-line dating service on a first date. Applicant denies this allegation. He stated that he does not know where that information came from. He stated that he does not discuss his work or that he has a security clearance with anyone except his recruiter, and not to a foreign recruiter. (Tr. p. 43.) There is insufficient evidence in the record to support this allegation.

The Government also alleges that Applicant committed acts of Domestic Violence on at least four separate occasions between 2001 and 2016. During this period, at least two restraining orders were issued against him for misconduct.

Applicant married Wife 1 in 1988, and they were officially divorced in 1997. From this union, his daughter was born in 1994. (Tr. p. 45.) Wife 1 had a son from a previous marriage that Applicant helped to raise. Applicant stated that he still loves Wife 1 as a friend. (Tr. p. 62.) Applicant married Wife 2 in 1999. From that union a son was born in 2001. Applicant described Wife 2 as unstable and delusional, with an alcohol problem, who been clinically diagnosed as suffering from Bi-polar Disorder. (Government Exhibit 1, Tr. p. 65.)

In 2001, Applicant invited Wife 2 to come live with him and Wife 1 because according to Wife 2, she was being abused by her boyfriend. One evening Applicant and Wife 2 (who is bi-polar and has a drinking problem) went out to a bar with Applicant's coworkers from his office. After a night of drinking, Applicant caught Wife 2 outside the

bar with one of his coworkers who had asked her to perform oral sex on him. Applicant stopped the situation before it occurred. At home, Applicant confronted Wife 2 about this situation. A physical fight ensued. Apparently, she started physically attacking him. He pushed her off of him so he could get out of the house. The Sheriff's Office responded, and Applicant was arrested and charged with Domestic Violence; and Battery. A restraining order was entered against the Applicant. Applicant was offered an alternative resolution. Applicant completed 12 months of anger management and the charge was dismissed. (Government Exhibit 2.) After this incident, Applicant separated from his wife for a while.

In 2007, Wife 2 claimed that Applicant had pushed her at a gas station. Applicant claims that he got into a verbal argument with Wife 2 at home and during the argument she called the police. Applicant claims that he did not physically assault Wife 2 or harm her. The Sheriff's Office responded, and Applicant was arrested and charged with Domestic Violence. Applicant spent 1-2 nights in jail before bail was posted. The charges were ultimately dismissed because there was no evidence to support them. Applicant then filed for divorce in 2007, but in 2008, he reconciled with Wife 2. (Tr. p. 51, Government Exhibits 2 and 6.)

In 2010 or 2011, Applicant saw that Wife 2 and several of their children were involved in a fist fight. Applicant jumped in the middle of the fight that escalated into a situation where Applicant's shirt was ripped off. Applicant stated that he wrapped his arms around his daughter to keep her from hitting him. She then calmed down, and this ended the incident. While at church, the incident was discussed by family members and was characterized as a fight between Applicant and his daughter. The police were called, and the Applicant and his daughter were questioned about the domestic violence incident. No arrests or charges were made. (Government Exhibit 2.)

In 2016, Applicant stated that he was at a sleep apnea appointment and Wife 2 thought that he was cheating on her. Applicant admitted that he had cheated on his wife but not on that occasion. Wife 2 claimed that Applicant had punched their son in his face a month earlier. for spilling some a bag of Cheetos in his car. Applicant denies that he did this. Applicant acknowledged that his son had some bruises on his face, but assumed that it was because of sibling fights, between him and his brother. The police responded and told the Applicant that he had to leave the residence or be arrested. A restraining order was entered against the Applicant. Applicant complied with the restraining order. He moved out of the house, and then eventually out of the state. (Government Exhibits 4, 7, and 11.)

Wife 2 alleged that Applicant struck their son and kicked him off of the bed and dropped him on his head. Applicant denies that he had anything to do with hurting his son at any time, and believes that this may have happened when the brothers were horse playing. Applicant stated that the family ganged up against him and believed that he had been abusing his son. Applicant was charged with Domestic Violence and Child Abuse. Applicant claims that he has never abused his son or Wife 2, and that the allegations were false. Applicant stated that he believed that Wife 2 had coached their son to say that Applicant had abused him. DHS did their own investigation and found that Applicant had abused his son. The matter went to trial and based on technicalities, there was a mistrial. Applicant entered an Alford Plea on the recommendation of his attorneys. Various testimonies during the criminal trial also showed inaccuracies and conflicting statements on Wife 2's side of the case. (Government Exhibit 2.) Applicant filed for divorce in 2016, and it was finalized in 2017. (Tr. p. 55.)

In response to questions in his security clearance application about his police record, Applicant commented that bi-polar Wife 2 falsely accused him of allegations which were completely untrue, and with the help of his attorney, he was cleared of any wrongdoing. (Government Exhibit 1, p. 55.)

In March 2020, Applicant decided to move back in with his family to help an ailing son and to provide financial support for the others. Applicant stated that he and Wife 2 started dating again, they are now back together, and have been living together since 2022. There have been no domestic violence accusations since 2016. Applicant stated that Wife 2 is the love of his life, and that he has never stopped loving her. (Tr. pp. 61-62.) He stated that Wife 2 is managing her bi-polar disorder with holistic medicine. She has also curtailed her drinking to one drink on each occasion. (Tr. p. 63-64.)

Four witnesses testified on behalf of Applicant including Wife 1; an Air Force Captain who served in the military with the Applicant; Applicant's sister; and his daughter. Collectively, they believe that Applicant is trustworthy and responsible. He has adjusted well to the blended family dynamic. He is described as a great father, who has never been physically abusive to any of his children, including those that are not biologically his. They have never observed him physically abusing with Wife 2. He is a hard worker, and a structured father who is said to be a great example on what parenthood should look like. (Tr. pp. 119-142.)

Seventeen character reference letters from people who know the Applicant both professionally and personally indicate that he is reliable and trustworthy. Those he works with recognize his unwavering commitment to excellence which include his skill set, vocational experience, leadership, and professionalism, that make him a great asset. His family members note that he is a person of strong moral character, who is dependable,

keeps his commitments, and treats others with fairness. He is said to be kind-hearted and compassionate. He has earned the confidence and trust of all who know him. He is highly recommended for a security clearance. (Applicant's Exhibits D through R.)

Policies

When evaluating an applicant's suitability for national security eligibility, the administrative judge must consider the adjudicative guidelines (AG). 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 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 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. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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 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 access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information.

Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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

Analysis

Guideline K - Handling Protected Information

The security concern relating to the guideline for Handling Protected Information is set out in AG ¶ 33:

Deliberate or negligent failure to comply with rules and regulations for handling protected information—which includes classified and other sensitive government information, and proprietary information—raises doubt about an individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

The guideline notes several conditions that could raise security concerns under AG ¶ 34. Two are potentially applicable in this case:

- (b) collecting or storing protected information in any unauthorized location, and
- (g) any failure to comply with rules for the protection of classified or sensitive information.

Applicant mishandled classified information by deliberately and negligently removing it; improperly storing it; losing it; and burning it without proper authorization. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 35 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 35 including:

- (a) so much time has elapsed since the behavior, or it has happened so infrequently or under such unusual circumstances, that it is unlikely to recur

and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities;

(c) the security violations were due to improper or inadequate training or unclear instructions; and

(d) the violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern.

Applicant's deliberate and negligent removal of classified information and improper storage, only discovered during an FBI investigation, is inexcusable. Applicant also inadvertently took other classified information, and when he realized that he had it, he burned it, and did not report it to his Facility Security Officer. Although this misconduct occurred many years ago, it was so egregious and reckless that none of the mitigating conditions are applicable. This conduct still casts doubt on his current reliability, trustworthiness and good judgment.

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

(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;

(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:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations;

(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:

- (1) engaging in activities which, if known, could affect the person's personal, professional, or community standing; and

(f) violation of a written or recorded commitment made by the individual to the employer as a condition of employment.

After twenty years in the military with access to classified information, and regular security briefings, in addition to many years in the civilian world working with classified information, Applicant's mishandling of classified information is inexcusable. He believes Wife 2 is responsible for reporting his security violations to the FBI and that she was framing him. Whether she did or not does not mitigate his conduct. His series of arrests and charges for Domestic Violence and Child Abuse he claims were all fabrications by Wife 2, and that she was again framing him, but he has been living with her since 2022. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 17 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 17 including:

- (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;
- (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;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

Applicant's encounters with law enforcement involving a series of arrests and charges, that escalated to a court trial for Domestic Violence and Child Abuse are very troubling. Applicant has never taken responsibility for any of this misconduct. He blames Wife 2 and claims that she fabricated all of this. Applicant divorced Wife 2 in 2017, but he has recently resumed his relationship with her. Applicant's judgment is questionable and indicative of unreliability, and untrustworthiness. Insufficient mitigation has been shown. None of the mitigating conditions are applicable.

Whole-Person Concept

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

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

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

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

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. Applicant's intentional and deliberate mishandling of classified information, although not recent, is egregious, reckless, and not excusable under any circumstances. His series of arrests, charges, and encounters with law enforcement all involving Wife 2, with whom he has resumed his relationship, further demonstrates poor judgment, unreliability, and untrustworthiness. He has failed to meet his burden of proving that it is clearly consistent with the national interests to grant his clearance. Accordingly, I conclude Applicant has not mitigated the Handling of Protected Information and Personal 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 K: AGAINST APPLICANT

Subparagraphs 1.a. and 1.b. Against Applicant

Paragraph 2, Guideline E: AGAINST APPLICANT

Subparagraph 2.a. Against Applicant

Subparagraph 2.b. For Applicant

Subparagraph 2.c. 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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge