



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



In the matter of:	)	
	)	
	)	ISCR Case No. 25-00280
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: Patrick Korody, Esq., Korody Law, P.A.

02/23/2026

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**Decision**

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Lokey Anderson, Darlene D., Administrative Judge:

On May 20, 2024, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On April 16, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline H, Drug Involvement and Substance Misuse. The action was taken under Executive Order 10865 (EO), *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 May 7, 2025, and requested a hearing before an administrative judge. The case was assigned to me on July 29, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on November 19, 2025, and the hearing was convened as scheduled on January 29, 2026. The Government offered

four exhibits, referred to as Government Exhibits 1 through 4, which were admitted without objection. The Applicant offered thirteen exhibits, referred to as Applicant's Exhibits A through M, which were admitted without objection. Applicant called no witnesses but testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on February 9, 2026.

### **Procedural Rulings**

The Government amended the Statement of Reasons on June 27, 2025, to include a second guideline, Guideline J, Criminal Conduct. Under Guideline J is allegation 2.a. Applicant had no objection to said amendment. (Tr. p. 7.) The Government's amendment to the Statement of Reasons was made. Applicant responded to allegation 2.a., on July 17, 2025. (H.E. 1.)

### **Findings of Fact**

Applicant is 40 years old. He is married for a second time and is in the process of divorce. He has two children from his first marriage. He has a Master's degree. He holds the position of Operations Program Manager for a defense contractor. Applicant has been working for his current employer since November 2023. He is seeking to retain his security clearance in connection with his employment.

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

The Government alleges that the Applicant has used controlled substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose; and that he has engaged in conduct involving questionable judgment, which can raise questions about an individual's reliability and trustworthiness.

Applicant joined the U.S. Army Reserves while in a military college in Vermont in February 2005. He received his first security clearance in 2006, which was renewed in 2018. (Tr. p. 68.) He has held a security clearance for the past twenty years. In June 2007, after graduation, he commissioned as an officer, and transitioned to active duty. He served on active duty from 2007 to April 2015, for a total of eight years. He then transitioned back to the Army Reserves and holds the rank of Lieutenant Colonel. He plans to retire from the Army Reserves on June 1, 2026. During his military career he has been deployed three times, including two combat tours and an overseas tour. He received Bronze Stars for each combat deployment. He also received a Combat Action

Badge that signifies that he was engaged with the enemy. (Applicant's Exhibit F, and Tr. p. 32.)

Applicant married woman #1 in 2007, and they separated and divorced in 2018. In 2008, while still married to woman #1, Applicant met woman #2 who was in the same Army Reserve unit he was in, and they became friends. They were both deployed to Iraq together, in 2009, and 2010. Then they lost touch with each other for several years. In about 2016, Applicant found woman #2 on Linked-In, while he was separated and in the process of divorce from woman #1. They started talking off and on, and then dating. By 2018, Applicant and woman #2 were romantically involved, which led to her eventually moving in with the Applicant. They got married in November 2018.

Since separating from the active-duty Army, Applicant has worked for various defense contractors. He began working for his current employer in November 2023. He completed a security clearance application in May 2024, because he was up for a periodic review, and because his employer wanted his security clearance to be upgraded to a Top Secret. This would allow him to work on Top Secret programs within the company. (Tr. p. 29.)

Applicant used marijuana (edibles) with varying frequency from July 2020 to at least July 2024. (Tr. p. 55.) During this four-year period, he stated that he used marijuana probably no more than ten times, (but he could not be sure), while holding a sensitive position and a security clearance. (Tr. p. 70.) Applicant stated that his wife, woman #2, purchased it at a dispensary. He testified that he used marijuana under pressure from his wife, woman #2, knowing that it was against Federal law. He stated that his wife, woman #2, was volatile, and physically and verbally abusive to him. He stated that he initially pushed back on the idea because he knew it was not right as a military officer for him to use marijuana which is against Federal law. (Tr. p. 56.) However, to avoid her being upset with him, and to avoid her emotional and psychological abuse, he used the marijuana when she asked him to. He stated that she wanted him to self-medicate with her to help him relax from his own anxiety and depression. Applicant stated that he has never reported her behavior to any authorities. He also stated that as a military officer he was normally subject to random drug testing, however, due to the Covid Pandemic, they were not going to in-person battle assemblies any more, where the random drug testing used to go on.

In response to questions in Section 23 of the security clearance application dated May 20, 2024, regarding Illegal Use of Drugs or Drug Activity, Applicant did not list any illegal drug use. He stated that because it was legal in his state, he rationalized that it was not really an issue. Even though, he knew at the time that it was illegal under Federal

law and clearly prohibited by the Department of Defense. (Government Exhibit 1 and Tr. p. 71)

During his subject interview dated October 9, 2024, Applicant told the investigator that he planned to continue to use marijuana edibles approximately twice per year with his wife. He further stated that he did not intend to make any changes or stop using the edibles because the effects cause him to feel more relaxed. (Government Exhibit 2, and Tr. p. 74.)

Applicant was asked why he did not use marijuana following his subject interview with the investigator in October 2024. He testified that his wife was not using marijuana and so there was no pressure on him to use it. (Tr. p. 93.)

Applicant submitted a Statement of Intent dated May 2, 2025, to abstain from any future illegal drug use with the understanding that any future use will be grounds for revocation. (Applicant's Exhibit A.) He also submitted three Anonymous Hair Drug Panel and Extended Opiates Tests dated May 5, 2025; September 19, 2025; and January 15, 2026, that all show negative results for any illegal drug. (Applicant's Exhibits B and M.)

Applicant submitted a psychological evaluation dated July 13, 2025, that was conducted by video-teleconference from his home in Colorado to his psychologist in Florida. After evaluating the Applicant, his psychologist stated that despite Applicant's poor decision to engage in THC use, his trustworthiness and integrity are noted by responding truthfully and honestly about his use. In her clinical opinion, Applicant does not presently have any condition or behavioral propensities that could negatively impact his reliability, trustworthiness, or judgment while working in a cleared setting or around classified information. (Applicant's Exhibit D.)

Four letters of recommendation from a Security Specialist; a Principal Functional Support Specialist; an Aerospace Engineer; and a Colonel and Chief of Staff at his U.S. Army Reserve unit all reflect that Applicant has demonstrated professionalism, integrity, and sound judgment throughout his tenure. He was dependable, honest, reliable and fully committed to the mission. He consistently displayed excellent leadership and was highly respected by his peers and subordinates. He has in the past been trusted with the lives of our Nation's Soldiers and the protection of its secrets and has ensured preservation of both. He is considered to be an asset to the national security of the United States and not a concern. He is recommended for a security clearance. (Applicant's Exhibit E.)

## **Guideline J: Criminal Conduct**

The Government alleges that Applicant's history of criminal conduct creates doubt about his judgment, reliability, and trustworthiness. It also calls into question his ability or willingness to comply with laws, rules, and regulations.

In March 2025, Applicant was arrested and charged with Domestic Violence and Misdemeanor Harassment. Applicant explained that he and his wife got into a verbal argument about paying for landscaping. His wife wanted to add \$2,000 to \$3,000 more to the landscaping work to the \$15,000 of work that was already being done. Applicant told her that they could not afford to do it. She wanted it done. The police report of the incident outlines the details of the altercation. In summary, their conversation did not seem to be going anywhere positive, with arguing and yelling, and at some point Applicant tried to hug his wife, and she told him that she did not want to be touched. She stated that he held her down, and leaned over her so that she could not move. She pushed him away. At some point she started to feel unsafe and started recording the situation on her phone. Applicant stated that he touched her twice, (when he tapped her leg to get her attention), and then he kicked something at the foot of their bed and stormed out. Applicant did not know if his kick hit her leg or hit the bed near her leg. She told the police that Applicant put a hole in the bathroom door, and got physical and violent with her. Applicant testified that he did not put a hole in anything during that argument. He does admit that he has put holes in walls during other arguments with her on other occasions out of frustration. He has also thrown things at her or against the wall during their fights. On this occasion, he stated that he tried to talk with her, and she told him to leave the room or else she would pack her bags and go to a friend's house. He then left the room. She went into the bathroom and closed the door. He did not want to give up on the relationship, and so he came back upstairs and into the bathroom. At this point, his wife had moved into a corner. She was still recording and told him that she was going to call the police. Applicant left the bathroom and then left the house. Applicant was subsequently arrested and charged with Domestic Violence and Harassment. The police officer observed the outer forearm of Applicant's wife's right arm, and saw what he believed to be a thumb sized bruise. She told him that that it was from the Applicant grabbing her the Friday before. (Government Exhibits 3 and 4.) Applicant pled guilty to Harassment, with the Domestic Violence enhancement, and received a deferred sentence. If he successfully completes probation, the charge will be entered as not guilty. The court sentenced him to complete a Domestic Violence (DV) Treatment Program for 36 weeks, (3-twelve-week-periods) a fine, and he was placed on probation for 18 months. Applicant has paid the fine, is working the DV Treatment Program, and currently remains on probation until March 30, 2027. If he finishes probation early, which is in nine months, he will remain on probation until June or July 2026. (Applicant's Exhibit L, and Tr. p. 88.)

A protective order is in effect against him which was automatically issued by the state. (Tr. p. 91.)

Applicant stated that during the conflict with his wife, he had wanted to try to save the marriage. (Tr. p. 94.) He stated that he now realizes the arrest and conviction for Harassment was a “godsend” because he was able to get time and space away from wife #2 and he can now see that the relationship was unhealthy and not helping him at all. (Tr. p. 66.)

Applicant also stated that he is now in the process of divorcing woman #2. They have been separated for about 10 months, since March 2025. His future intent is to finalize the divorce and separate from all communications and ties with her. (Applicant’s Exhibit J, and Tr. p. 41.)

Applicant has completed 16 hours of the 36 hours of the Domestic Violence Class ordered by the court, and has received a Certificate of Class completion dated July 27, 2025. (Applicant’s Exhibit H.)

### **Policies**

When evaluating an applicant’s suitability for a security clearance, 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 H - Drug Involvement and Substance Misuse**

The security concern relating to the guideline for Drug Involvement and Substance Misuse is set forth at 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 at AG ¶ 25 contains three conditions that could raise a security concern and may be disqualifying:

- (a) any substance misuse (see above definition);
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia; and
- (f) any illegal drug use while granted access to classified information or holding a sensitive position.

The guideline at AG ¶ 26 contains conditions that could mitigate security concerns:

- (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.

Applicant used marijuana (edibles) during a 4-year period from July 2020 to July 2024. This fairly recent use of marijuana occurred while he possessed a security clearance, and while holding a sensitive position. This is very troubling. Applicant is not a young person with little or no experience. He is a Lieutenant Colonel in the Army Reserves, a high-ranking military officer, who has over twenty years of experience working in the military and in the defense industry. Under the circumstances, his illegal drug use is egregious. He blames his marijuana use on his wife and the pressure she put on him. This excuse does not mitigate his misconduct, but in fact aggravates it. An individual who can be pressured to do something against their will is not someone who

should have access to classified information. Applicant has held a security clearance for about twenty years. He knew very clearly that the use of marijuana is illegal under Federal law, and that illegal drugs use is prohibited by the Department of Defense. Applicant recently signed a Statement of Intent to abstain from all future illegal drug involvement. However, his recent history of illegal drug use is criminal, and demonstrates extremely poor judgment, unreliability, and untrustworthiness. Applicant's actions are not mitigated.

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

The security concern relating to the guideline 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 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 judgement, reliability, or trustworthiness;
- (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; and
- (c) individual is currently on parole or probation.

The guideline at AG ¶ 32 contains conditions that could mitigate security concerns. Neither of the conditions set forth below are 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.

Applicant's arrest for Domestic Violence and Misdemeanor Harassment occurred as recently as March 2025. He pled guilty to Harassment with a Domestic Violence enhancement, and will remain on probation until March 30, 2027. Applicant's history of criminal conduct demonstrates poor judgment, unreliability, and untrustworthiness.

Applicant's recent criminal conduct gives rise to serious concerns about his judgment, reliability and trustworthiness, both because of the nature of the offense, and the circumstances surrounding the offense. The before-mentioned disqualifying conditions have been established and are not mitigated.

### **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 facts and circumstances surrounding this case. I have incorporated my comments under Guideline H and Guideline J in my whole-person analysis. An individual who holds a security clearance is expected to comply with the law at all times. Applicant is a Lieutenant Colonel in the Army Reserves with twenty years of military service. He is expected to know the DoD and company policies and procedures concerning illegal drug use, that includes the use marijuana, which is prohibited under Federal law. He chose not to follow Federal law. Furthermore, he remains on probation until March 30, 2027,

for his arrest for Domestic Violence and Misdemeanor Harassment. Applicant has not demonstrated the level of maturity needed in order to access classified information. Applicant is not an individual in whom the Government can be confident to know that he will always follow rules and regulations and do the right thing, even when no one is looking. At this time, Applicant does not meet the qualifications for a security clearance.

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

### **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 H:	AGAINST APPLICANT
Subparagraphs 1.a. through 1.c.	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraphs 2.a.	Against Applicant

### **Conclusion**

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

Darlene Lokey Anderson  
Administrative Judge