



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



In the matter of: )  
)  
) ISCR Case No. 24-00682  
)  
Applicant for Security Clearance )

**Appearances**

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

03/06/2026

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**Decision**

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DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the personal conduct, financial considerations, or criminal conduct security concerns. He mitigated the drug involvement and substance misuse security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On May 31, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E (personal conduct), Guideline F (financial considerations), Guideline H (drug involvement and substance misuse), and Guideline J (criminal conduct). Applicant responded to the SOR on June 6, 2024 (Answer) and requested a decision based upon the administrative record in lieu of a hearing. He later changed his election and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The case was originally assigned to other administrative judges, both of whom retired. It was reassigned to me on August 5, 2025. After conferring with the parties, the matter was originally scheduled for hearing on October 16, 2025, however that hearing was postponed because all DOHA administrative judges were furloughed from October 1, 2025, until November 12, 2025, during a federal government shutdown due to a lapse in funding. After another delay due to a health issue from which Applicant was suffering,

the hearing was rescheduled for January 29, 2026. On December 16, 2025, DOHA sent a notice of hearing to the parties scheduling the hearing in this matter on that date.

On January 29, 2026, the hearing was convened over the Microsoft Teams online network. Government Exhibits (GE) 1 through 8 were admitted in evidence without objection.

Applicant testified and provided documents that I entered in evidence as Applicant Exhibits (AE) A and AE B, without objection. At Applicant's request, I left the record open until February 5, 2026, for either party to provide post-hearing documentation. Applicant timely provided AE C through AE F that I entered in evidence without objection. The record in this matter closed on February 5, 2026. DOHA received a transcript (Tr.) of the hearing on February 5, 2026.

### **Motion to Amend the SOR and Subsequent Withdrawal of the Motion**

During the hearing, after learning of evidence of additional potentially disqualifying information related to Applicant's federal income tax return filings, the Government moved to amend the SOR to conform to the evidence. After granting the motion to amend, I gave Applicant the option of seeking additional time to address the amended SOR allegations. When he asked for additional time and a continuance of the hearing to another date, the Government withdrew its Motion to Amend the SOR. There being no SOR Amendment, I concluded that no postponement of the hearing was warranted, and the hearing proceeded to its conclusion. (Tr. 35-41)

### **Findings of Fact**

Applicant completed and certified a security clearance application on July 13, 2023 (SCA). He is a 41-year-old employee of a government contractor. He has worked for this government contractor since early 2025. Prior to this employment, he worked for another government contractor since sometime in 2023. He has been working outside of the United States since about 2023. He earned a high school diploma and took online undergraduate courses but has not earned an undergraduate degree. He has never married. He has three children, ages 19, 18, and 7. (Tr. 29-31, 41-45, 85; GE 1, 2; AE A, B, C)

In 2019, Applicant was arrested and charged with possession of methamphetamine and with illegal possession of stolen things over \$5,000 but less than \$25,000. He had been driving a rental car for his brother that was reported as stolen. In the cupholder next to Applicant in the driver's seat, police found a pill containing methamphetamine and a small container of hydrogen peroxide that contained three partially dissolved pills of an unknown substance. In the trunk of the car, police found six gummies in cannabidiol (CBD) packaging. Police field tested one of these gummies for marijuana and found that it contained tetrahydrocannabinol (THC), although it is unclear what percentage of THC it contained. As a result of these charges, Applicant pleaded guilty to possession of marijuana and unauthorized use of a vehicle. He has completed

the terms of his sentence. The police report reflected that Applicant told police that he did not know the car was stolen, did not see the pills in the cupholder, and had purchased what he thought were CBD gummies online. When he testified, his version was slightly different, in that he claimed that he bought the CBD gummies from a convenience store just before being stopped by police. He acknowledged that he had been driving the car for several hours. (Tr. 24-28, 66-67, 70-83; Answer; GE 2, 5, 6; AE A-C)

In 2015, Applicant was arrested and charged with cruelty to juveniles and simple battery after a welt was noted on his elementary-school-aged son's arm. Applicant claimed that he had been whipping his son with a belt to discipline him for causing trouble at school, and he accidentally hit his son on the arm with his belt. He was convicted of simple battery and given a six-month suspended sentence. (Tr. 24-28; Answer; GE 2, 7; AE A-C)

In 2008, Applicant was arrested and charged with indecent behavior with juveniles and contributing to the delinquency of juveniles. As part of the process to determine his security clearance eligibility, Applicant underwent a security interview with a DOD investigator in August 2023. The investigator summarized the contents of the interview in a document that Applicant adopted and authenticated in May 2024 (SI). During the SI, after the DOD investigator confronted him with the 2008 charges, he claimed that police charged him because his 16-year-old cousin and his cousin's girlfriend were in his car while they possessed alcohol. The police report from the incident reveals a different story and reflects that the parent of a 14-year-old girl informed them that Applicant had arranged to meet the girl in a pharmacy parking lot after texting with her for about a week. Police found Applicant in the relevant parking lot at the agreed upon meeting time and brought him back to the police station for questioning. After reviewing relevant cell phone text messages between Applicant and the 14-year-old, and speaking to her parent, he was charged with the aforementioned offenses. As a result of these charges, he was given a deferred sentence of one year of unsupervised probation. (Tr. 24-28, 58-62, 67-70; Answer; GE 2, 5, 6; AE A-C)

As part of the SOR, the Government alleges that Applicant had 12 delinquent accounts totaling a little under \$28,000 (SOR ¶¶ 2.a through 2.l). The delinquent accounts consist of the following: an automobile loan (SOR ¶ 2.a); a personal loan (SOR ¶ 2.b); credit cards (SOR ¶¶ 2.c, 2.e, 2.f, and 2.j); internet or cable accounts (SOR ¶¶ 2.d, 2.h, and 2.l); an insurance account (SOR ¶ 2.g); a residential lease (SOR ¶ 2.k), and an unknown consumer account (SOR ¶ 2.i). In the Answer, he admitted the Guideline F SOR allegations, with additional comments, except for the allegations in SOR ¶ 2.k, which he denied. His admissions are adopted as findings of fact. The Guideline F SOR allegations are established through his admissions and the credit reports in evidence. (Answer; GE 2-4)

Applicant testified that he made some payments on the SOR accounts over the years, as he has had the income to do so. He provided no documents to corroborate any of these payments. He was mostly vague as to which accounts he made payments

or in what amount, but specifically claimed he made payments on the debt in SOR ¶ 2.b. He testified that he surrendered the vehicle securing the debt in SOR ¶ 2.a in 2023, when he left the country for work, but the creditor claimed it never received the vehicle. He claimed he contacted the creditor several times in 2023 about the location of the vehicle with no resolution. (Tr. 24-28, 31, 46-55; Answer; GE 2-4; AE A-E)

Applicant claimed that he fell behind on these accounts when he was unemployed or underemployed before he began working for his current employer. He also cited the COVID-19 pandemic and the deaths of his stepfather and brother in 2021. He claimed that the account in SOR ¶ 2.k should not have appeared on his credit report, and that he had a credit report that showed the account had been removed. He acknowledged that he had been evicted by the landlord of this account during the COVID-19 pandemic. In his post-hearing documents, he provided a credit report of unknown origin dated February 5, 2026, that does not list the account in SOR ¶ 2.k. It is unclear from the record why that account does not appear on this credit report. (Tr. 24-28, 31, 46-55; Answer; GE 2-4; AE A-E)

Despite admitting all the debts except the aforementioned debt in SOR ¶ 2.k, Applicant testified that he believes that some of the SOR accounts are fraudulent. He claimed that he filed police reports regarding the various fraudulent accounts. He did not provide any documents to corroborate these filings. He provided post-hearing documents showing that his sensitive information may have been included in various data spills, and that, in January 2025, he made a claim of identity theft with the Federal Trade Commission (FTC). He provided no information regarding any resolution of his identity theft claim, or as to which of his accounts the identity theft claim was applicable. The credit report he provided in the post-hearing documents reflects that he disputed the debts in SOR ¶¶ 2.b and 2.g with the credit reporting agencies. It is unclear what the basis of this dispute is, especially given his vacillation regarding his responsibility for the SOR accounts. The credit report does not reflect a resolution of the disputes. It is unclear from the record when he filed his disputes with the credit reporting agencies, but his credit report reflects a last action date of January 2026 on these disputed accounts, with no reduction of the balances. His credit report reflects that he has satisfied some non-SOR accounts as recently as 2023, but it also reflects additional delinquent accounts not listed in the SOR. (Tr. 24-28; Answer; GE 2-4; AE A-E)

While it is not alleged in the SOR, Applicant did not timely file his federal income tax returns for tax years 2021, 2022, 2023, 2024, and 2025, despite being required to do so. He testified that he recently sent his financial information for tax years 2022, 2023, and 2024 to a tax preparer. After the hearing, he provided pictures that tend to show that he mailed his State A and federal income tax returns for tax years 2025, 2024, and 2023 on February 4, 2026. However, he did not provide documents showing completed and executed income tax returns. He claimed that he is gathering the information necessary to file his missing income tax returns for tax years prior to 2023. (Tr. 31-35; AE C)

Applicant testified that he may be delinquent on his child-support obligations for an amount no more than \$1,000. I will not use this unalleged conduct or the late income tax returns for disqualification purposes, I will use it for appropriate purposes, such as when analyzing mitigation and in my whole-person analysis. He earns about \$30,000 annually. Prior to starting his current job in early 2025, he earned about \$67,000 annually. He testified that he has about \$500 left over in surplus earnings at the end of each month. He claimed that he has about \$2,000 in his bank accounts and that he is able to meet his financial obligations. He did not present evidence of a written budget or a personal financial statement. He has not undergone financial counseling. (Tr. 41-45, 83-91; AE C)

Applicant provided documents showing that he provided money to various family members over the years. He also provided documents showing payments to a storage facility from 2023 through 2025 that does not appear to be an SOR account. (Tr. 90; AE C)

Despite being required to do so, Applicant failed to divulge in the SCA the following information: in 2019, he was arrested and charged with possession of methamphetamine and with illegal possession of stolen things over \$5,000 but less than \$25,000; in 2015, he was arrested and charged with cruelty to juveniles and simple battery; and in December 2008, he was arrested and charged with indecent behavior with juveniles and contributing to the delinquency of juveniles. Additionally, despite being required to do so, Applicant failed to divulge in the SCA any of the delinquent debts alleged in Paragraph 2 of the SOR. (Tr. 24-28, 62-67, 70-83; Answer; GE 2-8; AE A-C)

During the SI, despite being given the opportunity to do so, Applicant did not volunteer any of the aforementioned criminal charges that he failed to divulge on the SCA. He claimed his reasons for not disclosing the required criminal conduct was because he misunderstood the questions, he thought that he was only required to report criminal conduct in the last seven years, and he was not convicted of some of the crimes. (Tr. 24-28, 79-83; Answer; GE 1, 2, 5-8; AE A-C)

After being confronted with his 2019 arrest, Applicant told the DOD investigator only part of the reason for his arrest. He told the investigator that police found some CBD gummies in the car he was driving. He also claimed that he did not know the rental car he was driving for his brother was reported as stolen. He did not tell the DOD investigator that police found other substances, including methamphetamine, and gummies that tested positive for marijuana on a field test. He claimed that he did not know the gummies contained marijuana. He told the investigator that he had never used illegal drugs and repeated that claim in a written statement in evidence. After testifying that he had never used illegal drugs, he later admitted that he has smoked marijuana, the last time being in 2005. (Tr. 24-28, 62-67, 70-83; Answer; GE 2, 5, 6; AE A-C)

When cross-examined as to why he told the investigator that he had not used illegal drugs when he used marijuana, he claimed that he did not think of marijuana as

an illegal drug, but more of a party drug, like alcohol. He claimed that he now understands that marijuana is illegal. (Tr. 63-67; Answer; GE 2; AE A-C)

During the SI, after being confronted with his 2008 arrest for indecent behavior with juveniles and contributing to the delinquency of juveniles, Applicant again told the DOD investigator only part of the story. He claimed that he was arrested for having his 16-year-old cousin and his girlfriend in his car with him when alcohol was present. He did not tell the DOD investigator that part of the reason he was arrested was for attempting to pick up a 14-year-old girl. During his testimony, he denied that he had picked the 14-year-old up in his car and claimed that he did not know how old she was when he was pursuing a relationship with her. I found his answers to questions regarding the 14-year-old to be veiled and misleading. For example, when Department Counsel asked him if ever brought the 14-year-old girl back to his house, he repeatedly responded that he had been found not guilty in court. Then, he testified that he did not bring her back to his house but later admitted that he had. The police report reflected the one of the police officers thought the victim appeared to be 10-11 years old, given her approximate height and weight. (Tr. 24-27, 58-70; Answer; GE 2, 8; AE A-C)

During the SI, the DOD investigator also confronted Applicant with his 2015 arrest for cruelty to juveniles and simple battery. The investigator also confronted Applicant with the delinquent accounts listed in the SOR after he failed to volunteer them. He claimed that he simply forgot about the delinquent accounts and then proceeded to provide relevant information about some of them when the DOD investigator asked more pointed questions. He also claimed that, because he thought he was addressing the debts, he was not required to disclose them. (Tr. 24-28; Answer; GE 2, 7; AE A-C)

Generally, Applicant has denied that he was intentionally untruthful, and claimed he was not trying to hide any derogatory information from the Government. He claimed that he knew it would be impossible to hide anything from the Government, so he would not try. He represented that any inaccuracies he provided were a result of misremembering or misunderstanding the questions. He claimed he was truthful during the SI and disclosed all relevant information. He also claimed that he has matured and has better judgment now. (Tr. 24-28, 58-83; Answer; GE 2-8; AE A-C)

Applicant provided a character-reference letter from his colleague who attested to his outstanding character, integrity, and strong work ethic. The writer believed that Applicant should be awarded security clearance eligibility. The writer did not indicate that she was familiar with the allegations in the SOR when she wrote the letter. Applicant also provided copies of numerous work-related training certificates for courses including, but not limited to, operational security, cyber-awareness, counter-intelligence awareness and reporting, insider-threat training, and maximizing organizational trust. (AE C, D, E, F)

## **Policies**

This case is adjudicated under Executive Order (EO) 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 adjudicative guidelines (AG), which became effective on June 8, 2017.

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

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

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

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

A person who seeks access to 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 of 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 E, Personal Conduct

The security concern 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. The following are potentially applicable in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

Applicant provided inaccurate information regarding his criminal and financial history in the SCA and to the DOD investigator in the SI. To find the above-referenced subparagraph of Guideline E applicable, I must determine whether his falsification was deliberate. I find it was deliberate for several reasons. First, he had a motivation to lie to increase the likelihood of being granted security clearance eligibility by omitting or misrepresenting potentially derogatory information concerning his criminal history and poor financial health. I also note that the DOD investigator had to confront him with derogatory information on these topics. Once he was confronted, Applicant was able to provide significant insights into these arrests and delinquent accounts, which makes his excuse of forgetting them or not knowing about them unlikely.

Most importantly, given the totality of the evidence, and after observing him testify, I do not find him to be credible or a reliable storyteller. There are far too many inconsistencies in his reporting at the various stages he provided information. For example, after the DOD investigator confronted him with his arrest in 2008, he claimed the charges stemmed from having his underage cousin in his car with alcohol. He failed to mention the potentially more egregious conduct of trying to develop a relationship

with a 14-year-old girl. When he was asked about the 14-year-old girl during cross-examination, I found his answers about his involvement with her were disingenuous and misleading in that he downplayed the extent to which he pursued her. He has also inconsistently claimed at various times that he bought the CBD gummies online, or he bought them at a convenience store right before police stopped his vehicle.

I also noted Applicant's habit of providing an exculpatory answer only to gradually walk it back with explanations that strain credulity when confronted with his inconsistencies. For example, he made the statement to the DOD investigator that he had never used illegal drugs and repeated that statement during cross-examination. Later, he acknowledged that he used marijuana in the past. When asked to explain the obvious inconsistency, he claimed that he was being honest because he did not think of marijuana as being illegal. However, he pleaded guilty to the criminal charge of possessing marijuana in 2019, which undermines this claim.

Applicant deflected and prevaricated when asked whether he brought the 14-year-old girl back to his house in 2008. He eventually said he did not bring her back to his house, only to later admit that he had. His claim that he did not believe he needed to report criminal behavior or drug involvement that was more than seven years prior to the SCA also defies belief. His 2019 arrest that he failed to divulge was well within the seven-year cutoff of the SCA, which he certified in 2023. As I have found him to be deliberately untruthful, it is difficult for me to determine which representations he made are truthful and which are not. *Falsus in uno, falsus in omnibus*. As I find that his falsifications were deliberate, AG ¶¶ 16(a) and 16(b) are established.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (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; and
- (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.

Applicant's deliberate omissions and failure to include detrimental information in the SCA and during the SI are not mitigated. This conduct is not minor, as deliberately omitting or falsifying required information during the security clearance process strikes at the heart of the process, which relies on candid and honest reporting. There is

insufficient evidence that he made a prompt, good-faith effort to correct his omission, concealment, or falsification before being confronted with the facts. During the SI, he did not volunteer the information regarding his criminal history or financial delinquencies before the DOD investigator confronted him. In his Answer and at the hearing, he continued to attempt to justify his failure to report required information with reasons that lacked believability. These continued, incredible justification attempts mean he has failed to show that he acknowledged his dishonest behavior. None of the personal conduct mitigating conditions apply

## **Guideline F, Financial Considerations**

The security concern for financial considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. The following are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant had 12 delinquent accounts totaling just under \$28,000. The above disqualifying conditions are established.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following are potentially applicable:

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, a death, divorce or separation,

clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;

(d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts;

(e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue; and

(g) the individual has made arrangements with the appropriate tax authority to file or pay the amount owed and is in compliance with those arrangements.

None of the mitigating factors apply to Applicant's SOR accounts. It is reasonable to expect Applicant to present documentation about the resolution of specific debts. See, e.g., ISCR Case No. 15-03363 at 2 (App. Bd. Oct. 16, 2016). Applicant provided no documents regarding his attempts to make payments or payment arrangements. Instead, he made unspecified and uncorroborated claims that he made some payments on these accounts. The only documents he provided concerning debt resolution were vague and superficial claims that he disputed debts because of the possibility that his identity had been stolen given the unremarkable fact that his personal information was involved in a data spill. Given that I do not find him credible, the lack of specificity he provided for his disputes, and his inconsistent acknowledgement of his responsibility for the accounts, I do not find that he provided a reasonable basis to dispute the legitimacy of any of the past-due debts. These factors also mean that I do not find that his debt resolution efforts were made in good faith or that he acted responsibly under the circumstances.

Applicant's effort to file his delinquent income tax returns for several tax years after the hearing adjourned, but before the record closed, are of little mitigative effect. Even if I were to give him credit for filing his 2023 through 2025 income tax returns without appropriate corroborative documentation, this evidence tends to show that he is motivated by the self-interest of obtaining his security clearance, and not by meeting his basic civic duty of complying with federal and state tax obligations, or by complying with well-established legal obligations. His last-minute effort also reveals that he had the time and wherewithal to file these income tax returns, but simply was not motivated to do so until he realized it could cause him problems with his security clearance eligibility. Furthermore, he still has not filed all his required income tax returns, and he provided no evidence that he has an arrangement with the IRS to file them. Applicant's financial issues are ongoing, and his ineffective and disingenuous resolution efforts cast doubt on his current reliability, trustworthiness, and good judgment.

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

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

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

The guideline notes several conditions that could raise security concerns under AG ¶ 25. The following is potentially applicable in this case:

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

In 2019, Applicant possessed methamphetamine. He was arrested and charged with that possession and ultimately pleaded guilty to possession of marijuana. AG ¶ 25(c) is established.

AG ¶ 26 provides conditions that could mitigate security concerns. The following is potentially applicable:

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

The record evidence provides that Applicant has not possessed or used an illegal drug in at least six years. His drug involvement was limited to this possession and marijuana use and possession in 2005, so his illegal drug involvement and substance misuse was infrequent. I find that these factors show that his illegal drug involvement and substance misuse is unlikely to recur. AG ¶ 26(a) fully applies and I find that Applicant mitigated the Guideline H security concerns.

### **Guideline J, Criminal Conduct**

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

Criminal activity creates doubt about an Applicant'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 is potentially applicable:

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

Applicant was arrested and charged with illegal possession of a stolen thing and illegal possession of methamphetamine in 2019. He pleaded guilty to unauthorized use of a vehicle and possession of marijuana. He was charged by police with cruelty to juveniles and simple battery in 2015. He was charged by police with indecent behavior with juveniles and contributing to the delinquency of juveniles in 2008. AG ¶ 31(b) is established.

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

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

It has been at least six years since Applicant's 2019 arrest. Therefore, it would appear that a significant amount of time has passed since he engaged in criminal behavior. However, I have found that Applicant has been, and continues to be, untruthful about material facts relevant to a security clearance adjudication. Providing untruthful material information in a security clearance adjudication is a criminal offense under 18 U.S.C.A. § 1001. Therefore, Applicant continues to engage in criminal behavior, undercutting his efforts at mitigation under AG ¶ 32(a) and AG ¶ 32(d), which require the passage of time without recurrence of criminal acts. Given the recency of criminal activity, AG ¶ 32(a) and AG ¶ 32(d) do not apply. The criminal conduct security concerns 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 have incorporated my comments under Guidelines E, F, H, and J in my whole-person analysis.

Overall, given the analysis herein, I conclude that Applicant did not mitigate the personal conduct, financial considerations, or criminal conduct security concerns. He mitigated the drug involvement and substance misuse security concerns.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraph 1.a-1.d:	Against Applicant
Paragraph 2, Guideline F:	AGAINST APPLICANT
Subparagraphs 2.a-2.l:	Against Applicant
Paragraph 3, Guideline H:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Paragraph 4, Guideline J:	AGAINST APPLICANT
Subparagraphs 4.a-4.c:	Against Applicant

### **Conclusion**

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.

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Benjamin R. Dorsey  
Administrative Judge