



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



In the matter of: )  
)  
) ISCR Case No. 24-02170  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government:  
Lauren L. Shure, Esq, Department Counsel

For Applicant:  
*Pro se*

03/02/2026

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**Decision**

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CEFOLA, Richard A., Administrative Judge:

Applicant has not mitigated the security concerns raised under the Personal Conduct and Criminal Conduct guidelines. National security eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted an Electronic Questionnaire for Investigations Processing on December 7, 2023 (Questionnaire). On August 25, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline J (Criminal Conduct) and Guideline E (Personal Conduct). The action was taken under Executive Order 10865, *Safeguarding Classified Information Within Industry* (February 20, 1960), as amended; Department of Defense (DoD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within DoD after June 8, 2017.

On March 13, 2025, Applicant responded to the SOR in writing (Answer) and requested that the case be decided on the written record in lieu of a hearing. In his Answer, Applicant admitted the allegations in SOR ¶¶1.a, 1.d, 1.e, 1.f, 1.g, and 2.a, and denied the rest. On December 5, 2025, Department Counsel submitted the Government's written case in a File of Relevant Material (FORM). A complete copy of the FORM, consisting of Government Exhibits (GE) 1 to 6 and the Government's arguments in support of the SOR, was received by the Applicant on January 6, 2026. He was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns, but he did not respond within the period specified to do so. The case was assigned to me on February 23, 2026, and GE 1 to 6 were admitted without objection.

### **Findings of Fact**

Applicant is 34 years old and is presently employed as a rigger for a DoD contractor where he has worked since October 2022. He submitted the Questionnaire approximately a year after starting his employment with the DoD contractor and adjudication remains pending. He is unmarried but has been living with his girlfriend (CM) since 2009. Applicant has three children. (GE 3 at 5-6, 9, 13-14; GE 6 at 12)

#### **SOR Paragraph 1, Guideline J (Criminal Conduct)**

The Government alleged that Applicant is ineligible for a security clearance because he has engaged in criminal conduct that calls into question his ability or willingness to comply with laws, rules, and regulations. I find the following facts regarding this allegation:

**1.a. 2023 arrest (False Pretenses):** Beginning in approximately June 2021, Applicant filed for unemployment despite having a part-time job. Over the course of several months, he fraudulently obtained approximately \$15,000. In January 2023, after being contacted by State Police, he confessed to the scheme. Applicant was subsequently arrested on or about January 31, 2023, for the felonies Obtaining Money Under False Pretenses (over \$1,500) and Unauthorized Computer Access. On June 21, 2023, in accordance with a plea deal, he pled *nolo contendere* to the misdemeanor of Obtaining Money Under False Pretenses (less than \$1,500). Applicant was required to pay back \$15,604, which he did by taking out a loan from his credit union. In his Answer, Applicant admitted to the allegation as drafted, noting that he “realized that this was wrong after being arrested.” (Answer at 1; GE 3 at 20-21; GE 5 at 5; GE 6 at 7, 18)

**1.b. 2018 arrest (Domestic Violence):** On or about June 27, 2018, Applicant had an altercation in his apartment with CM during which he restrained her by holding her “by her shoulders and neck.” He was arrested that day by local law enforcement for the felony Domestic Strangulation. On August 8, 2018, in accordance with a plea deal, Applicant was convicted of misdemeanor Domestic Violence – Disorderly Conduct. The court levied a no-contact order against Applicant as to both CM and Applicant's then eight-year-old daughter. Applicant was required to receive a mental health evaluation and attend 13-weeks of counselling, which he did.

The no-contact order was lifted on January 18, 2019. Applicant denied the allegation as drafted, stating that at the time of the incident, CM had drug problems and lied to the police. This is contrary to his May 20, 2024, statement to investigators (that he adopted on December 4, 2024, and swore to be accurate). Applicant claimed in his Answer that he only held her by her shoulders – not her neck – in an effort “to stop her from smashing things.” He also stated he would provide a letter from CM, but no such letter is in the record. (Answer at 1; GE 3 at 23; GE 4 at 1, 3, 5, 7; GE 5 at 5; GE 6 at 8-9, 14, 16)

**1.c. 2017 arrest (Domestic Violence):** On or about January 25, 2017, Applicant and CM engaged in an intoxicated, mutual, physical altercation in his apartment where Applicant ended up restraining CM by her neck. Applicant maintains he was the one who contacted local law enforcement, but he ended up being arrested for misdemeanor Domestic Violence – Simple Assault and Disorderly Conduct. The charges were dismissed on February 22, 2017. Applicant denied the allegation as drafted because the charges were dismissed and “the police were called falsely.” This is despite his previous statement that he was the one who called them. (Answer at 1, 5; GE 3 at 22-23; GE 4 at 9, 11; GE 5 at 4; GE 6 at 9, 14)

**1.d. 2015 arrest (Property Damage / Leaving the Scene):** On or about July 16, 2015, Applicant was looking at his phone while driving and rear-ended a tow truck. Applicant drove away as his vehicle was not registered and he had no insurance. Applicant was arrested for misdemeanor Duty to Stop / Damage to Vehicle. On August 4, 2015, in accordance with a plea deal, he pled *nolo contendere* to the offense. The court sentenced him to pay restitution (\$2,970), a year of probation, and court costs (\$94). In his Answer, Applicant admitted to the allegation as drafted, noting that he “made a very bad decision.” (Answer at 1; GE 4 at 13-14; GE 5 at 4; GE 6 at 10)

**1.e. 2012 arrest (Warrant):** On or about January 30, 2012, Applicant was arrested pursuant to warrant for failure to appear. Applicant admitted to the allegation as drafted. (Answer at 1; GE 5 at 4; GE 6 at 10)

**1.f. 2011 arrest (Domestic Violence):** On or about July 3, 2011, Applicant was drinking alcohol at a party with CM. On the way home, they got into an argument and Applicant threw his phone out the car window (thinking it was her phone). Applicant then stopped the car to look for his phone. Local law enforcement was contacted by an unknown party and arrived on scene. Applicant was uncooperative with the police and was arrested for misdemeanor Disorderly Conduct and Assault of a Police Officer. The case was ultimately dismissed by the court on September 9, 2011. Applicant admitted to the allegation as drafted. (Answer at 2-3); GE 5 at 3; GE 6 at 11)

**1.g. 2010 arrest (Warrant):** On or about July 25, 2010, Applicant was arrested pursuant to warrant for failure to appear. Applicant admitted to the allegation as drafted. (Answer at 1; GE 5 at 3; GE 6 at 11)

## **SOR Paragraph 2, Guideline E (Personal Conduct)**

The Government alleged that Applicant is ineligible for a security clearance because he had engaged in conduct that involved questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations. I find the following facts regarding this allegation:

**2.a. Cross-allegations with paragraph 1 in its entirety.** See discussion *supra*.

### **Whole Person and Mitigating Evidence**

Applicant submitted comments and explanations in his Answer as whole person evidence in mitigation of the security concerns alleged in the SOR. This submission was reviewed in its entirety, as well the comments and explanations Applicant included in both his Questionnaire and responses to interrogatories. In addition, in his responses to interrogatories, Applicant provided the name of a potential witness with contact information, but no statement from the same. The Hearing Office declines Applicant's offer to conduct additional investigation on his behalf. (Answer; GE 3; GE 6 at 3)

### **Policies**

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

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

The protection of national security is the paramount consideration. AG ¶ 2(b) requires, "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. I have not drawn inferences based on mere speculation or conjecture.

Directive ¶ E3.1.14, requires the Government to present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, “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, and has the ultimate burden of persuasion as to obtaining 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 national security eligibility. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified or sensitive information.

Finally, as emphasized in Section 7 of Executive Order 10865, “Any determination under this order adverse to an applicant shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *a/so* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

### **SOR Paragraph 1, 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 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 judgment, reliability, or trustworthiness; and

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

From July 2010 through January 2023, Applicant was arrested at least seven times for various criminal offenses including failure to appear, domestic violence, and fraud. AG ¶¶ 31 (a) and (b) are applicable; therefore, the burden shifts to Applicant to mitigate security concerns under Guideline J.

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.

Applicant admitted to five of the seven arrests, but the record evidence confirms all seven – at least three of which resulted in convictions. As the Appellate Board has noted, “[a] judge should not make assumptions or draw inferences about why there was no prosecution without corroborating evidence beyond Applicant’s self-serving averments.” ISCR 22-00761 at 8 (App. Bd. May 27, 2025). As a result, that the fact that criminal charges were dropped, dismissed, or resulted in an acquittal does not preclude an Administrative Judge from finding an applicant engaged in the conduct underlying those criminal charges. ISCR 08-08606 at 1 (App. Bd. Dec. 4, 2009).

Additionally, Applicant’s most recent conviction from 2023 is *crimen falsi*, which Applicant only acknowledged as being wrong *after* he was arrested. This is of particular concern when measured against the national security principles of reliability, trustworthiness, and good judgment. Though the fraud conviction was nearly three years ago, when evaluated in conjunction with Applicant’s long history of criminal misconduct, I cannot find that criminal conduct is unlikely to recur. His criminal conduct continues to cast doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions therefore are applicable, and the criminal conduct security concerns are not mitigated.

## **SOR Paragraph 2 (Guideline E, Personal Conduct)**

The security concerns relating to the guideline for personal conduct are set out in AG ¶ 15, which states:

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 facts of this case establish the following potentially disqualifying conditions set forth in AG ¶ 16:

- (d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:
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; and
  4. evidence of significant misuse of Government or other employer's time or resources.

Applicant's long history of criminal misconduct reveals multiple instances of bad judgment and an unwillingness to comply with rules and regulations. AG ¶¶ 16(d) is applicable; therefore, the burden shifts to Applicant to mitigate security concerns under Guideline E.

The guideline includes the following conditions in AG ¶ 17 that could mitigate security concerns arising from Applicant's conduct:

(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 behaviors 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 reoccur.

In his Answer, Applicant attributes all of these offenses to "mistakes," but the consistent reoccurrence of misconduct suggests a more profound issue with character. His personal conduct is not mitigated and continues to cast doubt on his current reliability, trustworthiness, and good judgment. None of the mitigating conditions, individually or collectively, are sufficiently applicable to overcome Applicant's record of misconduct.

### **Whole-Person Concept**

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

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant national security 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 above whole-person factors and the potentially disqualifying and mitigating conditions in light of all pertinent facts and circumstances surrounding this case. I have given the appropriate weight to Applicant's pledge in his Answer that he is not the person he once was. Ultimately however, Applicant's many criminal and personal conduct issues cannot be resolved in his favor and overall the record evidence leaves me with questions and doubts as to Applicant's suitability for national security eligibility and a security clearance.

### **Formal Findings**

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

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a through 1.g:	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 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 Applicant national security eligibility. Eligibility for access to classified information is denied.

RICHARD A. CEFOLA  
Administrative Judge