



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



In the matter of:)
)
) ISCR Case No. 24-01752
)
Applicant for Security Clearance)

Appearances

For Government: Nicole Smith, Esq., Department Counsel
For Applicant: *Pro se*

03/25/2026

Decision

LAFAYE, Gatha, Administrative Judge:

Applicant mitigated security concerns related to psychological conditions but failed to mitigate security concerns related to criminal conduct, sexual behavior, and personal conduct. Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 16, 2024. On January 17, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) alleging security concerns under Guidelines J (criminal conduct), D (sexual behavior), and E (personal conduct). Applicant answered the SOR on February 21, 2025 (Answer) and requested a hearing before an administrative judge.

On March 26, 2025, the Government amended the SOR alleging more personal conduct security concerns and new allegations under Guideline I (psychological conditions). Applicant answered the Amended SOR on April 14, 2025. The case was assigned to me on August 1, 2025.

On August 22, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for September 23, 2025. The Government amended the allegation in SOR ¶ 1.e one day before the hearing. Applicant did not object to the

amendment, and he admitted the allegation, waived the notice requirement, and requested to proceed with the hearing. The hearing was held as scheduled.

The Government offered seven exhibits at the hearing, Government Exhibit (GE) 1 through GE 7, which were admitted in evidence without objection. Applicant testified and offered 13 exhibits, many of which were already included in the administrative record. Applicant Exhibit (AE) A through AE J were already in the record. AE J is a statement made by Applicant that was included with his Answer to the amended SOR. AE K through AE M were admitted in evidence without objection.

I left the record open to allow Applicant time to submit additional evidence. He timely submitted AE N, which was admitted in evidence without objection. I officially closed the record on November 20, 2025, after the end of a federal government shutdown, which occurred from October 1 through November 12, 2025, and which caused the furlough of all administrative judges due to a lapse in federal funding. DOHA received the hearing transcript (Tr.) on October 2, 2025.

Findings of Fact

In his Answer, Applicant admitted the allegations in the SOR ¶¶ 1.a - 1.d, and 1.e, as amended. He also admitted SOR ¶¶ 3.a - 3.b; and 3.c – 3.i, and 4.a – 4.b of the amended SOR. He denied the allegation in SOR ¶ 2.a. His admissions are incorporated in my findings of fact. After thorough review of the evidence, I make the following additional finding of facts.

Applicant is 32 years old. He earned his high school diploma in June 2012 and enlisted in the U. S. Air Force in 2013. He completed multiple technical training courses in the Air Force and earned his certification in 2014. He was discharged from the Air Force in August 2017 with a general under honorable conditions characterization of service. (AE F; DD Form 214; Tr. 61) He married in 2014, separated in about 2016, divorced in 2023, and does not have children. (GE 1, 2; Tr. 23-24)

Applicant completed two recent SCAs, one in April 2022 and another in January 2024, and said he held a security clearance during his time in the Air Force. In April 2022, Applicant listed that he attended an online university from 2013 to 2017 and received a bachelor's degree in August 2017. (GE 1 at 12) However, he claimed during his testimony he did not recall stating he received a bachelor's degree in August 2017. (Tr. 28-30) In his 2024 SCA, he said he earned an associate degree from another university in December 2022 (GE 2; AE I) and a bachelor's degree in cybersecurity management in June 2025 from the same university. (Tr. 28-30; AE I)

Applicant has worked as a logistics analyst for a defense contractor since August 2022. Though his current employer is sponsoring his security clearance, he accepted an employment offer with a different defense contractor to work as a project manager, which required him to complete a new SCA. He previously worked as a calibration technician for a private company, and as an assembly technician for a staffing company from

September 2021 to June 2022. He was unemployed from December 2019 to September 2021, and again from August to December 2018 after his administrative discharge from the Air Force. (GE 1, 2; Tr. 30-31)

In April 2022, Applicant disclosed in Section 20 - Police Record, he was arrested and charged with petty larceny and simple assault; felony attempted rape; felony rape; misdemeanor assault; and violation of a protective order. (GE 1) In his January 2024 SCA, he provided more detailed information about his arrests, charges, the disposition of charges, and sentences imposed for criminal conduct, including assault and battery, rape by force/threat, felony object sexual penetration, violation of a protective order, disregard of law enforcement command, and obstruction of justice. (GE 2).

Under Guideline J, the SOR alleges five incidents of criminal conduct, which occurred between 2016 and December 2019. In June 2016, the SOR alleges Applicant was investigated for sexual assault of his spouse (SOR ¶ 1.d). The allegation in SOR ¶ 1.e was amended before the hearing, without objection, and alleges Applicant was investigated for sexual assault of another individual not his spouse. He admitted both allegations.

Regarding SOR ¶¶ 1.d and 1.e, Applicant said his marriage was not good. His then wife (Ms. F) was unhappy because he was consumed with work to advance his career and had developed a habit of smoking, which she did not like. He admitted he was investigated for allegedly sexually assaulting Ms. F and another woman (Ms. W) who was not his wife, but he denied he sexually assaulted either person. He said the Air Force thoroughly investigated both allegations and declined to prefer charges against him in both instances. He participated in a weekly conflict resolution class, requested by the Air Force, for about a year and successfully completed the program. In 2025, he voluntarily participated in his state health department's sexual abuse awareness and prevention program. (GE 3, 4, 5; Tr. 32-49; AE H)

Applicant said he asked Ms. F for a divorce six months before she made sexual assault allegations against him and that sexual relations between them had ended months prior. He admitted there were occasions where he would want sex, she would decline, and times when he would still pursue sex, despite her declining initially. He said he was not aware of Ms. W's sexual assault allegation against him until much later. He did not know Ms. W but believes she was a friend of Ms. F and that she was motivated to help Ms. F derail his career or to get a more favorable divorce settlement. In 2015, during her birthday party, Ms. W accused him of forcing her to perform oral sex on him. She had been drinking vodka mixed drinks and other alcohol beverages during the evening. Applicant denied the entire series of events described by Ms. W. (GE 4; Tr. 44-45) He said he took his marriage vows seriously and never engaged in sexual contact with anyone outside of the marriage when he and Ms. F were together as a couple. (GE 4, 5; Tr. 32-49; AE D, E)

In 2017 prior to his discharge from the Air Force, Applicant said he was transported to a psychiatric hospital and treated for mental health conditions on two occasions. His

first hospitalization occurred in about June 2017. He was transported from his home to a psychiatric hospital via ambulance and remained a patient there for a few days. He said his second hospitalization occurred about July 2017, and he was hospitalized for about four days. He was diagnosed with bipolar disorder and post-traumatic stress disorder (PTSD), which is alleged in the amended SOR (SOR ¶ 4.a). Prior to that, he said he had been treated for depression and tobacco cessation and was prescribed and taking Wellbutrin or Abilify at the time. (Tr. 50-59, 94, 109-119; AE J, N)

Applicant responded “no” in response to the psychological and emotional health questions in both his April 2022 and January 2024 SCAs, listed below.

- Has a court or administrative agency EVER ordered you to consult with a mental health professional?
- Have you EVER been hospitalized for a mental health condition?
- Have you EVER been diagnosed by a physician or other health professional (for example, a psychiatrist, psychologist, licensed clinical social worker, or nurse practitioner) with a psychotic disorder ... bipolar mood disorder, et al.? (GE 1 at 39-41, GE 2 at 33-35)

Applicant’s “no” responses to the above questions are alleged as falsification of material facts in the SOR amendment (SOR ¶¶ 3.c – 3.h). The SOR amendment also cross-alleges the new allegations under SOR ¶¶ 4.a and 4.b (SOR ¶ 3.i). Though Applicant admitted all allegations in SOR ¶¶ 3.c – 3.i, he said he made a mistake and did not fully understand the question, stating:

I mistakenly believed that the questions were narrowly focused on *current* treatment or diagnosis that impacted my ability to perform my duties safely and reliably at the time of completing the form. (AE J)

Applicant claimed he believed the questions were only referring to his time in the military. He also said he was responding to the questions too fast, did not read the questions carefully, and that this occurred as he completed the April 2022 SCA and again as he completed his January 2024 SCA. He sent a message to a DOHA department counsel in December 2024 and commented that he “provided a response to a previous question that needs to be corrected,” in reference to his responses to the psychological conditions and emotional health questions listed above. (Tr. 101-119; AE M, N)

In June 2018, while shopping in a large retail store, Applicant said he asked a salesclerk to show him a purse. Instead of complying with his request, the salesclerk removed the purse from a locked rack and placed it behind the register. He said he stole the purse “out of pure frustration with the employee’s actions.” (Tr. 65) He did not have anyone in mind he wanted to gift the purse to, but said he was offended and upset about the way the salesclerk treated him. He left the store quickly with the purse and as he made his way to the parking lot, he was bumped by a car. The driver exited the car to check on him. He said he felt the driver was dismissive about bumping him with her car

and did not acknowledge her action. He grabbed and pulled her arm towards him, told her she just hit him with her car, and then released her arm. (GE 3; Tr. 64-69; AE C)

In the meantime, a male from the parking lot intervened, they got into a verbal altercation, he said the man tried to tackle him, and Applicant punched him. They fought, police arrived, and Applicant was ultimately arrested and charged with robbery, assault and battery, and petty larceny (SOR ¶ 1.c). This was the first time he had ever been arrested and charged with a crime. Pursuant to a *nolo contendere* plea agreement, the charges were reduced to misdemeanor assault and battery, he was fined and sentenced to confinement for 12 months (suspended). He paid the fine and satisfied the court's requirements for 12-months good behavior. (GE 3; Tr. 64-69; AE C)

In September 2019, Applicant was arrested and charged with rape by force/threat; object sexual penetration; and assault and battery (SOR ¶ 1.b). He admitted he was arrested and charged with these allegations by his girlfriend at the time (Ms. H), but denies the events ever happened. (Tr. 71-73)

Applicant said he and Ms. H had dated for about three years. (GE 3 at 110) They had dinner at a restaurant near his apartment on August 17, 2019, had an argument, and broke up at the restaurant. He said she wanted to go back to his apartment to stay overnight instead of taking a rideshare home. (GE 3, 6; Tr. 87-99) He told the investigator during his background interview that he and Ms. H watched TV for a few hours after returning to the apartment before going to bed. (GE 3) During the hearing, however, he said he "went to sleep almost immediately" after returning to the apartment. He explained the remainder of the evening as follows:

When I woke up, I had a missed call from her [Ms. H], and I believe it was 1:00 [AM]. I called her back that next morning, and she said that I had tried to rape her and of course to me, I'm like, we just broke up yesterday. We just broke up last night, and now this. At that point, I told her, I don't want to have any contact with you. I don't want to speak with you anymore, and I just want to move on. Unbeknownst to me, she had, I guess, went and made a report of some kind and I was then arrested [in September]. (Tr. 72)

Ms. H, on the other hand, said she fell asleep and woke up to the Applicant pulling on her and taking her clothes off. She resisted and he started slapping her face and choking her neck with his hands. He was able to take off her pants, put on a condom, and attempted to rape her with his penis and fingers. He stopped and went to the bathroom, and she was able to run away from his apartment with her belongings. She reported the incident to police at about 1:00 AM at the hospital shortly after she left the apartment. Ms. H requested and received an emergency protective order signed at about 3:00 AM the same day. Applicant said Ms. H has a bachelor's degree in psychology and he believes she told police he had bipolar disorder. (GE 3 at 84-90; Tr. 80-82)

A warrant for Applicant's arrest was issued immediately after the criminal complaint, but police officers said they did not arrest Applicant right away because they

were unable to locate him. Applicant disputed this assertion stating he continued to reside in the same apartment and worked in the same location. Before he was eventually arrested at his apartment in mid-September 2019, Ms. H contacted police and asked to drop the criminal complaint, but said she desired to keep the emergency protective order in place. (GE 3 at 91) At a hearing in December 2020, Ms. H petitioned the court to continue her protective order against Applicant, stating, “[Applicant] attempted to rape me in August 2019. This incident was followed with a protective order being put in place.” The court granted her request prior to the conclusion of the criminal case. The protective order prohibited Applicant from communicating with Ms. H and two family members residing with her. (GE 3 at 149-151; GE 6)

Applicant said Ms. H started calling him and asking for favors about two weeks after the alleged rape incident. She asked him to return her clothes and the gifts he had purchased her. She also asked him to drive her sister to work, which he said he did on at least two occasions. He claimed she started calling him “100 times a day” after learning he had a new girlfriend. (GE 3, 6; Tr. 69-76, 87, 98-100; AE A)

In early November 2019, the state criminal court ordered Applicant to undergo a psychological evaluation to determine his competence to stand trial for felony attempted rape by force/threat, object sexual penetration, and assault and battery. A licensed clinical psychologist (Dr. N) conducted a competency evaluation and during the interview, Applicant disclosed having a history of mental illness and said he had been diagnosed with bipolar disorder and PTSD, and was prescribed Abilify, an antipsychotic and mood stabilizer. Dr. N described Applicant as “calm, pleasant, logical, and communicative” and said Applicant was working and had restarted mental health treatment. Dr. N ultimately determined he was competent to stand trial. (GE 3 at 109-112, GE 6; Tr. 77-81)

In mid-November 2019, Applicant’s defense counsel petitioned the court for a second mental health evaluation to determine his sanity at the time of the offense, referencing his history of mental health treatment and “his guarded, at times irrational, statements on legal consultations.” (GE 3 at 97,113; Tr. 88-89) The court granted the petition and in March 2020, Applicant participated in an in-depth, two-session, clinical forensic evaluation conducted by a second licensed clinical psychologist (Dr. Z).

During the two interviews with Dr. Z, Applicant disclosed having a history of auditory and visual hallucinations, which is alleged in the SOR amendment (SOR ¶ 4.b). (GE 3 at 96-104; Tr. 87-99) Dr. Z said Applicant “flatly refused to sign a release to all medical and mental health records from [the treating hospital], instead providing records only from a few outpatient sources,” which caused Dr. Z’s to be unable to confirm the diagnosis, and the medications prescribed. (GE 3 at 97-104) The record shows Applicant signed a Department of Veterans Affairs (VA) medical records release on March 27, 2020, more than three weeks after the conclusion of his clinical interviews with Dr. Z. (GE 3 at 106-107, GE 6)

In his clinical forensic evaluation of Applicant, Dr. Z said Applicant claimed he last heard voices “a few years ago,” and that this was “one of the reasons I was hospitalized.”

Dr. Z said Applicant did not report hearing voices to any of the clinicians shortly after his hospitalizations in June and July 2017. He said that when he asked Applicant specific questions about his auditory hallucinations, he was unable to recall the content. However, he confirmed that Applicant's reported history of suicidal ideation was consistent with information he received from military providers.

Dr. Z made the following conclusions in his clinical forensic evaluation report:

[Applicant] possesses a factual and generally rational understanding of his legal circumstances and demonstrated the capacity to cooperate with counsel in the preparation of his defense. ... [However, he] does appear to struggle with one or more mental illnesses, which have influenced his participation in [the] current proceedings.

[Although Applicant] endorsed symptoms associated with acute mental illness, auditory and visual hallucinations, [he] never claimed that these were occurring on the night of the alleged offenses. (GE 3 at 97-104)

[I] was unable to elicit a single logically sequenced narrative from [Applicant] around the events of August 17, 2019. [He] ultimately stated he was innocent of [these crimes]. (GE 3 at 103)

In December 2019, Applicant said he wanted to sever all ties with Ms. H, stating she had kept calling him and leaving messages for him to return her clothes and possessions she left at his apartment. He said he drove to Ms. H's home when he knew she would not be there, and he left her possessions with her mother. Her mother called Ms. H when he arrived, and Ms. H contacted security to report that Applicant had violated the protective order she had against him. He said he was unaware at the time that Ms. H's protective order also included her two family members. (GE 3 at 16-19, 96-104; Tr. 87-99; AE A)

Applicant said a police officer arrived at Ms. H's home, he explained the situation and was allowed to leave. Another police officer stopped him as he was driving away from Ms. H's home. He said he did not immediately comply with the second police officer's request because the first police officer cleared him to leave. (GE 3, 6, 7; Tr. 76-90; AE A) He was arrested and charged with obstruction of justice, disregarding law enforcement command, and violation of a protection order (SOR ¶ 1.a). At the hearing, he took full responsibility for his actions in escalating the situation because he failed to follow the commands of a law enforcement officer, which caused him to spend three-months in jail. (Tr. 76-90)

In December 2020, Applicant pled no contest or *nolo contendere* to disregarding a law enforcement command. He was found guilty of misdemeanor violation of a protective order and obstruction of justice without force/threat. He was sentenced to 180-days of confinement (90-days suspended), and 18 months of unsupervised probation for violation of protective order; and 180-days of confinement (180-days suspended) and 18-

months of unsupervised probation for obstruction of justice without force/threat. (GE 3, 7, AE A)

The SOR cross-alleges SOR ¶¶ 1.a, 1.b, 1.d, and 1.e under sexual behavior security concerns, Guideline D (SOR ¶ 2.a). Applicant denied the allegation in ¶ 2.a, stating “I have never engaged in any criminal sexual behavior.” (Answer) He specifically challenges the allegation in SOR ¶ 1.a, stating it is incorrectly cross alleged because the allegation does not involve sexual assault. He also questions the applicability of SOR ¶¶ 1.b, 1.d, and 1.e, as sexual behavior allegations, and describes the underlying charges as “strictly unfounded allegations, not actual behaviors [he] actually engaged in” and said all should remain under Guideline E. He generally cites to his evidence in AE A-B, D-E, and G-I to support his assertions. (Answer)

Guideline E alleges Applicant was involuntarily separated from the Air Force for misconduct based on minor disciplinary infractions and ordered to refrain from returning to base (SOR ¶ 3.a), and it cross-alleges SOR ¶¶ 1.a and 1.e (SOR ¶ 3.b). The record shows Applicant was discharged for misconduct, minor infractions in August 2017. He said he was in a stressful situation at the time caused by personal issues related to his family life, including his failed marriage, and being under investigation for sexual assault allegations made by Ms. F, his ex-wife. He said he had difficulty sleeping, and as a result, he was frequently late for work and was disciplined for not being at his place of duty on time. (GE 3 at 14-16, 25-26; AE E; DD Form 214; Tr. 60-62)

At the sentencing hearing in August 2021, the court accepted the prosecutor’s *nolle prosequi* decision to resolve Applicant’s felony attempted rape and object sexual penetration charges (counts one and two) pursuant to a *nolo contendere* plea agreement, and he was found guilty of misdemeanor assault and battery (count three). The record shows Applicant pled guilty to counts one and two of the indictment at his trial in June 2021, pursuant to a *nolo contendere* plea agreement. (GE 3 at 50-64) During the sentencing hearing, the court, after considering its discretionary sentencing guidelines and the guidelines worksheet, issued its sentencing order, stating:

After hearing the evidence and argument of counsel, the Court finds that the facts would justify a finding of guilt and takes the matter under advisement for a period of 12 months on count three [misdemeanor assault and battery]. The defendant shall comply with the term and conditions as set forth in the written plea agreement.

Good behavior: the defendant shall keep the peace and be of good behavior and violate none of the penal laws of [this state] or any other jurisdiction for a period of 12 months on count three.

The defendant shall complete an assessment with [state corrections facility] and comply with all recommended services on count three. The defendant shall comply with the protective order that is currently in place.

If the defendant complies with the terms and conditions set forth in the written plea agreement, then count three assault and battery will be dismissed. (GE 3 at 136-140)

On August 18, 2022, the court acknowledged Applicant had successfully fulfilled his obligations under the plea agreement and, on motion of the state and for good cause shown, the court dismissed the misdemeanor assault and battery, count three of the indictment. (GE 3 at 138, GE 6) No further charges were pursued under counts one and two pursuant to the plea agreement. Applicant claims that all three charges were expunged in February 2025, but the document he submitted does not reference the relevant case number, and no supplemental document was provided. (AE B)

Applicant submitted evidence to support his case in mitigation (AE A - AE N). He acknowledged his past mistakes and said he has learned and matured from them. He returned to college and completed an associate and bachelor's degree. He also sought out training, participated in counseling, engaged in self-reflection, and "cultivated relationships and coping mechanisms." He said he has continued his treatment for bipolar disorder and PTSD and remains under the care of his VA mental health provider. He testified that he proactively sought positive reinforcement to improve his mental health condition rather than solely relying on prescription medication, and said his treating psychiatrist supports his strategy and said he is no longer taking prescription medication for his bipolar disorder. (AE A – AE N)

Applicant's treating psychiatrist (Dr. K) commented as follows in a letter dated October 6, 2025:

Currently, [Applicant] has no symptoms consistent with any bipolar related illness. Previous records indicate past mental health symptoms originated more from personality traits as opposed to an underlying mood disorder. [Applicant] denies any ongoing symptoms that would warrant a recommendation for continued engagement with psychiatric care at this time. (AE N)

Applicant also submitted a personal statement attesting to his commitment to comply with the adjudication guidelines. He submitted four letters attesting to his good character in AE N, and all individuals attested to his "exceptional work ethic and an unwavering commitment to excellence." His supervisor of two years described him as "highly responsible, trustworthy and dedicated." All individuals favorably endorsed his application for security clearance eligibility. (AE A – AE N)

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 several 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 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 J, Criminal Conduct

The security concern for criminal conduct is described 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.

Applicant's admissions and the evidence in this case establish the following disqualifying conditions under AG ¶¶ 31.

(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.

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;

(c) no reliable evidence to support that the individual committed the offense; 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.

AG ¶¶ 32(a) and 32(c) are established to mitigate SOR ¶¶ 1.d and 1.e due to the passage of time and unusual circumstances unlikely to recur, and insufficient reliable evidence to support the allegations. Applicant admitted being investigated in both instances but denied the underlying events occurred. The Air Force thoroughly investigated these allegations and determined the evidence was legally insufficient to prefer criminal charges or use the information for an administrative discharge. Applicant participated in weekly conflict resolution meetings for a year and successfully completed the program. He and his ex-wife separated in 2016, ceased all communications, and finalized their divorce in 2023.

AG ¶ 32(d) is established to mitigate SOR ¶ 1.c due to the passage of time and Applicant's successful compliance with the terms of the plea agreement and the court's good conduct requirements.

AG ¶ 32(d) is not established to mitigate the criminal conduct security concerns alleged in SOR ¶¶ 1.a. and 1.b. Regarding SOR ¶ 1.b, the prosecutor elected to *nolle prosequi* the felony attempted rape and object sexual penetration (counts one and two) of the indictment pursuant to a *nolo contendere* plea agreement, and he was found guilty of misdemeanor assault and battery (count three). After hearing the entirety of the evidence, the Court found "that the facts would justify a finding of guilt ..." Applicant also pled *nolo contendere* or was found guilty of all charges in SOR ¶ 1.a, which involved violating a protective order and offenses related to his encounter with law enforcement officials in the process of holding him accountable for violating the protective order.

Despite Applicant's *nolo contendere* plea to counts one and two of the indictment, during the hearing, he denied the underlying attempted rape events ever occurred. Applicant gained the benefits of a plea bargain in his criminal trial and then repudiated his *nolo contendere* plea and its legal effect in these proceedings. Applicant's denial of the underlying conduct is not credible. His unwillingness to accept responsibility for his actions is evidence that detracts from a finding of reform and rehabilitation. His actions and criminal conduct reflect poor judgment and raise serious questions about his trustworthiness, reliability, and overall suitability for a security clearance.

Guideline D, Sexual Behavior

Applicant denied the allegation in SOR ¶ 2.a, which cross-alleges conduct alleged in SOR ¶¶ 1.a-1.b, and 1.d-1.e. The security concern for sexual behavior is described in AG ¶ 12:

Sexual behavior that involves a criminal offense; reflects a lack of judgment or discretion; or may subject the individual to undue influence of coercion, exploitation, or duress. These issues, together or individually, may raise questions about an individual's judgment, reliability, trustworthiness, and ability to protect classified or sensitive information. Sexual behavior includes conduct occurring in person or via audio, visual, electronic, or written transmission. No adverse inference concerning the standards in this Guideline may be raised solely on the basis of the sexual orientation of the individual.

The following disqualifying conditions are potentially applicable under AG ¶ 13:

(a) sexual behavior of a criminal nature, whether or not the individual has been prosecuted;

(b) a pattern of compulsive, self-destructive, or high-risk sexual behavior that the individual is unable to stop; and

(c) sexual behavior that causes an individual to be vulnerable to coercion, exploitation, or duress.

Applicant's criminal conduct alleged in SOR ¶ 1.b and cross-alleged under this guideline in SOR ¶ 2.a, involves sexual behavior of a criminal nature that could cause him to be vulnerable to coercion, exploitation, or duress. AG ¶¶ 13(a) and 13(c) apply. However, the criminal conduct alleged in SOR ¶ 1.a, and cross-alleged here, does not involve sexual behavior and AG ¶ 13 is not applicable to SOR ¶ 1.a. The conduct alleged in SOR ¶¶ 1.d and 1.e include sexual behavior. Though Applicant denied the underlying events occurred and the investigation concluded the evidence was legally insufficient to prefer charges, the conduct as to the ex-wife, viewed in context of the attempted rape and object sexual penetration charges, is indicative of a pattern of compulsive sexual behavior in SOR ¶ 1.d, and AG ¶ 13(b) is established. AG ¶ 13(b) is not established for SOR ¶ 1.e, however, due to the absence of reliable evidence to support the allegation.

The following mitigating conditions are potentially applicable under AG ¶ 14:

(b) the sexual behavior happened so long ago, 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 judgment;

(c) the behavior no longer serves as a basis for coercion, exploitation, or duress; and

(e) the individual has successfully completed an appropriate program of treatment, or is currently enrolled in one, has demonstrated ongoing and consistent compliance with the treatment plan, and/or has received a favorable prognosis from a qualified mental health professional indicating the behavior is readily controllable with treatment.

AG ¶¶ 14(b), 14(c) and 14(e) are not established to mitigate the cross-alleged conduct in SOR ¶ 1.b. The above comments under Guideline J related to the conduct alleged in SOR ¶ 1.b are incorporated here. Applicant's statement that he has "never engaged in any criminal sexual behavior," despite his *nolo contendere* plea to felony attempted rape and object sexual penetration and the *nolle prosequi* disposition of these charges; and being found guilty of assault and battery, is not credible and raises questions and doubts about his judgment, reliability, trustworthiness, and his ability to protect classified or sensitive information. Applicant is credited with completing a sexual abuse awareness and prevention course in 2025 and continuing his mental health treatment through VA providers. However, he has failed to admit responsibility for his sexual behavior and has not received a favorable prognosis from his mental health providers for conduct related to sexual behavior.

AG ¶ 14(c) is established to mitigate the underlying conduct cross-alleged in SOR ¶ 1.d. Applicant and his ex-wife separated in 2016, ceased all communications, and

finalized their divorce in 2023. Due to the passage of time, the underlying sexual behavior alleged by his ex-wife no longer serves as a basis for coercion, exploitation, or duress.

Guideline E, Personal Conduct

The security concern under this guideline is described 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.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. Based on the evidence in this case, the following disqualifying conditions are potentially applicable.

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

(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.

AG ¶ 16(e) applies to the allegations in SOR ¶¶ 3.a and 3.b, which cross-alleges the criminal conduct alleged in SOR ¶¶ 1.a and 1.e. AG ¶ 16(a) applies to the falsifications alleged in SOR ¶¶ 3.c – 3.h. SOR ¶ 3.i is mitigated for the same reasons SOR ¶¶ 4.a and 4.b are mitigated, *infra*.

AG ¶ 17 provides conditions that could mitigate security concerns. The following are potentially applicable:

(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;

(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.

AG ¶ 17(c) is established to mitigate SOR ¶ 3.a. Applicant was discharged from the Air Force for misconduct due to minor disciplinary infractions in 2017, almost nine years ago and under circumstances unlikely to recur and is mitigated by time.

SOR ¶ 3.b, related to the cross-alleged security concern in SOR ¶ 1.e, is mitigated under AG ¶¶ 17(c) and partially mitigated under 17(f). The underlying event occurred 10 years ago and under circumstances unlikely to recur. Moreover, the perceived inconsistencies in some of the underlying facts in Ms. W's statement were unable to be reconciled as compared to Ms. F's statements and are deemed not sufficiently reliable to be applied here.

SOR ¶ 3.b, related to the cross-alleged security concern in SOR ¶ a., is mitigated under AG ¶ 17(d). Applicant took responsibility for his actions, and after being found guilty of the charges, he completed his sentence and all requirements imposed by the court.

None of the above mitigating conditions are sufficiently established to mitigate the security concerns alleged in SOR ¶¶ 3.c – 3.h. Comments made concerning Applicant's psychological conditions are incorporated here. I am unpersuaded by Applicant's claim that he believed the psychological conditions and emotional health questions in both his 2022 and 2024 SCAs were referring only to his time in the military. I am equally unpersuaded by his long, after-the-fact message to DOHA in December 2024, stating he had "provided a response to a previous question that needs to be corrected," in reference to the psychological conditions and emotional health questions. He was hospitalized for two mental health episodes that occurred in mid-2017 and was diagnosed with bipolar disorder and PTSD at that time. Applicant had a duty to answer all questions in his 2022 and 2024 SCAs with truthfulness and candor, and he did not.

Guideline I, Psychological Conditions

The security concern for psychological conditions is set out in AG ¶ 27:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required

for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

AG ¶ 28 provides conditions that could raise security concerns. Based on the evidence in this case, the following disqualifying conditions are potentially applicable:

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and

(c) voluntary or involuntary inpatient hospitalization.

SOR ¶ 4.a alleges Applicant was hospitalized on two occasions and diagnosed with bipolar disorder and PTSD. Bipolar disorder falls into the category of conditions that by their very nature raise security concerns, and AG ¶¶ 28(b) and 28(c) apply to the allegation in SOR ¶ 4.a.

SOR ¶ 4.b alleges Applicant in March 2020 reported a history of auditory and visual hallucinations, and suicidal ideation; and the psychologist opined that he struggled with a major mental health disorder. Though not listed as one of the psychological diagnoses that automatically raises a security concern here, AG ¶ 28(b) is applicable to the diagnoses.

AG ¶ 29 provides conditions that could mitigate security concerns. The following are potentially applicable:

(a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation; and

(e) there is no indication of a current problem.

Applicant readily admitted being diagnosed with bipolar disorder and PTSD during his two inpatient hospitalizations in 2017. He also discussed his mental health conditions during his clinical mental health evaluations with Drs. N and Z in 2019 and 2020, and he has a VA disability rating for these conditions. He was prescribed and has taken Abilify in the past but is no longer required to take medications to manage his psychological conditions. He has continued his treatment for bipolar disorder and PTSD and remains under the care of VA mental health providers. He sought positive reinforcement to improve his mental health condition instead of relying on prescription medications like Abilify. He returned to college and completed an associate and bachelor's degrees. His mental health providers have supported his proactive health care strategy.

In an October 2025 letter, Applicant's treating psychiatrist, Dr. K, opined that Applicant currently has no symptoms consistent with bipolar-related illness and said Applicant's previous medical records indicate his past mental health symptoms originated more from personality traits than an underlying mood disorder. He said Applicant does not have any ongoing symptoms that would warrant a recommendation for continued psychiatric engagement for bipolar disorder and PTSD, and he no longer takes medication for his mental health conditions. AG ¶¶ 29(a)–29(c), and 29(e) are established and allegations in SOR ¶¶ 4.a and 4.b are mitigated.

Whole-Person Concept

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines J, D, E, and I in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). After weighing the disqualifying and mitigating conditions and evaluating all evidence in the whole-person context, I conclude Applicant mitigated the security concerns under Guideline I, but failed to mitigate the security concerns under Guidelines J, D, and E.

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 J: | AGAINST APPLICANT |
| Subparagraphs 1.a – 1.b: | Against Applicant |
| Subparagraphs 1.c – 1.e: | For Applicant |
| Paragraph 2, Guideline D: | AGAINST APPLICANT |
| Subparagraph 2.a: | Against Applicant (except for the language referencing SOR ¶¶ 1.a, 1.d, and 1.e, which is found For Applicant) |
| Paragraph 3, Guideline E: | AGAINST APPLICANT |
| Subparagraphs 3.a – 3.b: | For Applicant |
| Subparagraphs 3.c – 3.h: | Against Applicant |
| Subparagraph 3.i: | For Applicant |
| Paragraph 4, Guideline I: | FOR APPLICANT |
| Subparagraphs 4.a - 4.b: | For Applicant |

Conclusion

It is not clearly consistent with the national interest to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

Gatha LaFaye
Administrative Judge