



DEPARTMENT OF WAR
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of:)
)
) ISCR Case No. 25-00850
)
)
Applicant for Security Clearance)

Appearances

For Government: Troy Nussbaum Esq., Department Counsel
For Applicant: *Pro se*

04/14/2026

Decision

Lokey Anderson, Darlene D., Administrative Judge:

On June 12, 2024, Applicant submitted a security clearance application (e-QIP). On August 12, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCAS CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline H, Drug Involvement and Substance Misuse; and Guideline E, Personal Conduct. The action was taken under Executive Order 10865 (EO), *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AG), effective within the DoD after June 8, 2017.

Applicant answered the SOR on September 24, 2025, and requested a hearing before an administrative judge. The case was assigned to me on December 8, 2025. The Defense Office of Hearings and Appeals issued a notice of hearing on January 12,

2026, and the hearing was convened as scheduled on March 26, 2026. The Government offered two exhibits, referred to as Government Exhibits 1 and 2, which were admitted without objection. Applicant called no witnesses and offered no exhibits. He did testify on his own behalf. The record remained open following the hearing, until close of business on April 6, 2026, to allow Applicant the opportunity to submit supporting documentation. Applicant submitted several exhibits that I reorganized into two Post-Hearing Exhibits, collectively referred to as Applicant's Post-Hearing Exhibits A and B, which were admitted into evidence without objection, and marked as such. DOHA received the final transcript of the hearing (Tr.) on April 8, 2026.

Findings of Fact

Applicant is 52 years old. He is recently widowed, and has six children, three biological children and three step-children, all are adults. He has a Bachelor's degree. He holds the position of Technical Sales Specialist with a defense contractor. A security clearance is required in connection with his employment.

Guideline H - Drug Involvement and Substance Misuse **Guideline E – Personal Conduct**

The Government alleges that the Applicant has engaged in the illegal use of controlled substances to include the misuse of prescriptions and non-prescription drugs and other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose.

The SOR alleges that Applicant illegally used the prescription medication Hydrocodone, not prescribed to him, from about 2015 to about January 2024. On occasions, he used his wife's prescription of Hydrocodone when he did not have a refill of his prescription. He also used his sister's prescription of hydrocodone when he did not have access to his own prescription.

Applicant served in the U.S. Army National Guard from 1993 to 1999. During his military service he was activated for one year to serve in Sinai, Egypt. He received an honorable discharge in 1999.

Applicant credibly testified that for the past sixteen years he has been actively involved in the sport of Jiu-Jitsu. The sport has caused him many injuries. To get through the various injuries and pain, his primary care physician has prescribed him Hydrocodone on many occasions over the years. Applicant has also from time to time used Advil, or Tramadol, when it was prescribed to him for pain relief. The first time that he was prescribed and used Hydrocodone was in 2014, for a knee surgery. It was also about that time that he started having neck pain. Following these injuries, he has had four more knee surgeries, specifically meniscus clean-up surgeries, and he took Hydrocodone for the pain. In 2016, he broke a bone in his hand that required surgery to be reattached,

and he took Hydrocodone. In 2017, he began having lower back pain. In 2018 or 2019, he had a shoulder injury that required surgery. He took hydrocodone again for pain. In 2022, he tore his bicep, and had surgery to have it reattached. Again, he was prescribed Hydrocodone for the pain. In 2023, he tore his hamstring. Applicant explained that the normal Jiu-Jitsu work-outs can be strenuous and painful. He may experience pain at any time from a new injury, or from old injuries in the past that flare up. Applicant stated that he also has back and neck pain from ongoing disc slips and protruding discs that can flare up at any time. Applicant further stated that two days before the hearing, he suffered a neck injury that was still ailing him. When Applicant takes Hydrocodone he takes it strictly for pain relief. (Tr. p. 29.) He stated that he last used it in January 2024.

Applicant admitted that in the past he would use his sister's or his wife's Hydrocodone on occasions when he was out of his prescription Hydrocodone. He now understands that it is unlawful to do so. He stated that in the future, he will not use any prescription drug that is not prescribed to him. Also, he will never use his sister's prescription of Hydrocodone again. Applicant's wife passed away last year.

Applicant submitted two Statement of Intent, one from him, and one from his sister. The one from him states that he will not use any illegal substance or improperly use any prescription drug not prescribed to him in the future. In the event that he does he agrees to automatic revocation of his security clearance. The Statement of Intent from his sister states that in the future she will no longer allow her brother to use any medication that she has been prescribed. She understands that it is a criminal offense and a violation of Section 1001, Title 18 of the US Code, to knowingly and willfully make a false statement or misrepresentation to the United States Government. (Applicant's Post-Hearing Exhibit A.)

Applicant submitted three performance appraisals for the periods from 2023 to 2024; 2024 to 2025; and 2025 to 2026. For the past three years his overall performance ratings on each appraisal reflects that he, "Exceeds High Bar". This rating is based on his overall contributions, including how he has demonstrated Leadership Principles and his ability to take on more scope and complexity. (Applicant's Post-Hearing Exhibit B.)

Policies

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

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative

judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. The entire process is a conscientious scrutiny of a number of variables known as the whole-person concept. The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

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

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

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

Analysis

Guideline H - Drug Involvement and Substance Misuse

The security concern relating to the guideline for Drug Involvement and Substance Misuse is set forth at AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises

questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

The guideline at AG ¶ 25 contains two conditions that could raise a security concern and may be disqualifying:

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

Applicant used his sister's and his late wife's prescriptions of Hydrocodone, not prescribed to him, during the period from 2015 to about January 2024. Such use was unlawful. Applicant's conduct at that time demonstrated an unwillingness to comply with laws, rules and regulations. The above disqualifying conditions apply.

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

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) disassociation from drug-using associates and contacts;
 - (2) changing or avoiding the environment where drugs were used; and
 - (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility.

Applicant has the ultimate burden of persuasion to obtain a favorable security decision. The evidence shows that Applicant has suffered numerous bodily injuries as a result of his Jiu Jitsu from about 2014 through January 2024. His primary physician has regularly prescribed him Hydrocodone over the years for pain relief due to his many injuries. Applicant was not an illegal drug user. He was using the same drug he was prescribed, but it was not his prescription. He simply did not take the time to get his

prescription refilled. Applicant now clearly understands that it is unlawful to use any prescription drug not prescribed to him, and he stated that he will not use his sister's or his past wife's prescriptions ever again. Otherwise, there is no evidence that Applicant has ever abused Hydrocodone, as he uses it strictly for pain relief. Applicant has provided sufficient evidence in mitigation. Accordingly, Guideline H is found for the Applicant.

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. Three are potentially applicable in this case:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;

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

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior; and

(3) a pattern of dishonesty or rule violations;

(e) personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:

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

(g) association with persons involved in criminal activity.

The guideline at AG ¶ 17 contains conditions that could mitigate security concerns. Two of the conditions are potentially applicable:

(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; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

In the past Applicant has at times used his sister's or his wife's prescription Hydrocodone for pain relief. He now understands this conduct to be unlawful and he stated that he will never use any prescription drug not prescribed to him in the future. Applicant has acknowledged the problem, changed his behavior, and submitted a Statement of Intent indicating that if he violates his commitment to use only his prescription drugs, and uses someone else's, his security clearance is subject to immediate revocation. Considered in totality, Applicant's conduct shows a finding of good judgment, reliability, and/or the ability to abide by rules and regulations. Applicant has shown sufficient mitigation to be entrusted with the privilege of holding a security clearance. Applicants are expected to abide by all laws, regulations, and policies that apply to them. He has provided sufficient evidence to mitigate this security concern. Accordingly, Guideline E is found for the Applicant.

Whole-Person Concept

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

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable

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

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

I considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines H and E in my whole-person analysis. An individual who holds a security clearance is expected to comply with the law at all times. As previously discussed, Applicant is using his prescribed Hydrocodone for pain relief due to injuries he sustained in Jiu Jitsu, and for no other reason. He credibly testified and submitted a Statement of Intent indicating that he will no longer use his sister's, his past wife's, or anyone else's prescriptions of Hydrocodone or any other illegal drug in the future.

Applicant has demonstrated a willingness to comply with the rules and regulations that are needed for access to classified information. Applicant understands the requirements associated with holding a security clearance and knows that any illegal drug involvement is not tolerated. Under the circumstances, Applicant is an individual in whom the Government can be confident to know that he will always follow rules and regulations and do the right thing, even when no one is looking. Applicant clearly meets the qualifications for access to classified or sensitive information.

Overall, the record evidence leaves me without questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has mitigated the Drug Involvement and Substance Misuse, and Personal Conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline H:	FOR APPLICANT
Subparagraph 1.a.	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a.	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with the national interests to grant or continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

Darlene Lokey Anderson
Administrative Judge