DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS

In the matter of:	)	
	)	
	)	ISCR Case No. 24-01381
	)	
	)	
Applicant for Security Clearance	)	

Appearances

For Government: Aubrey De Angelis, Esq., Department Counsel
For Applicant: Daniel P. Meyer, Esq., Tully Rinckey PLLC

07/16/2026

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On August 15, 2022; and January 20, 2023, Applicant submitted security clearance applications (SF-86 and e-QIP). On September 13, 2024, (SOR one); and July 28, 2025, (SOR two), the Defense Counterintelligence and Security Agency Consolidated Adjudication Services (DCAS CAS) issued Applicant Statements of Reasons (SOR), detailing security concerns under Guideline K, Handling Protected Information; Guideline M, Use of Information Technology; Guideline E, Personal Conduct; Guideline J, Criminal Conduct; and Guideline G, Alcohol Consumption. The action was taken under Executive Order 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 *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 SOR one on September 17, 2024; and SOR 2 on August 28, 2025, and requested a hearing before an administrative judge. The case was assigned to me on February 9, 2026. This decision only addressed SOR two. The Defense Office of Hearings and Appeals issued a notice of hearing on March 12, 2026, and the hearing was convened as scheduled on May 13, 2026. The Government offered forty-three exhibits, referred to as Government Exhibits 1 through 43, which were admitted without objection. (Government Exhibits 1 through 37, were admitted as evidentiary documents, with the next six documents referred to by Roman Numerals I through VI, considered as administrative notice documents.) Applicant offered four exhibits, referred to as Applicant's Exhibits A through D, which were admitted without objection. Applicant testified on his own behalf. The record remained open until close of business on May 27, 2026, to allow the Applicant the opportunity to submit his Drug and Alcohol assessment. Applicant submitted one Post-Hearing Exhibit, referred to as Applicant's Post-Hearing Exhibit A and admitted without objection. DOHA received the final transcript of the hearing (Tr.) on June 9, 2026.

Findings of Fact

Applicant is 47 years old. He is married with two biological children and two step children. He is employed as a Flight Calibration Coordinator with a defense contractor. A security clearance is necessary in connection with his employment.

Applicant served in the United States Navy from 1997 to 2017. After twenty years of service, he retired at the rank of E-8. Throughout his military career he held a security clearance without incident. As a civilian, he has worked in a number of positions, some requiring a security clearance and others that did not. Over the past thirty years he has received extensive training, indoctrinations, and annual security briefings on how to properly protect and secure sensitive, proprietary, unclassified, and classified information. (Tr. pp. 22-30.)

The SOR alleges allegations under Guidelines K, (Handling Protected Information); Guideline M, (Use of Information Technology); Guideline E, (Personal Conduct); Guideline J, (Criminal Conduct), and Guideline G, (Alcohol Consumption). In his response to the SOR, Applicant explained that he denied some allegations because the dates may not be completely accurate. At the hearing, however, after reviewing the factual allegations more carefully, he admitted every allegation. (Tr. pp. 70-72.)

1. Guideline K – Handling Protected Information

The Government alleged that Applicant is ineligible for a clearance because he deliberately or negligently failed to comply with rules and regulations for handling protected information; which includes classified and other sensitive government information and proprietary information, and raises doubt about his trustworthiness, judgment, reliability, or willingness and ability to safeguard such information.

1.a. The SOR alleged that in September, October, and November 2022, Applicant violated security procedures for handling protected information and attempted Electronic Spillage on five occasions.

1.b. Applicant also used his personal electronic device, namely a camera capable cellular phone, to take a picture of a computer screen and transmit government information that was on an unclassified government network.

Applicant began working for his current employer in September 2023. During his prior employment, Applicant committed at least five security violations that resulted in his termination on December 5, 2022. These violations are outlined below:

On September 21, 2022, Applicant sent his training coordinator a screen shot of his mandatory training, showing that it was never entered into the system under his new badge number. The screen shot also displayed the Unclassified Banner at the top of the computer screen. This was considered to be an improper security procedure and an attempted electronic spillage while using his personal electronic device (camera capable cellular phone) to transmit government information. (Government Exhibits 10 and 14.)

On September 27, 2022, while dealing with badge issues, Applicant was unable to log into the program to log his daily hours. His supervisor requested a screen shot of the problem so he could trouble shoot it. Applicant sent him a screen shot that contained the unclassified banner. This was considered to be an improper security procedure and an attempted electronic spillage while using his personal electronic device (camera capable cellular phone) to transmit government information. (Government Exhibits 10 and 15.)

On October 6, 2022, Applicant was referred to another supervisor to continue troubleshooting the problem. Applicant sent this supervisor the same screen shot he had sent earlier. Applicant was told that the banner across the top of the screen in the picture was considered to be classified. This was considered to be an improper security procedure and an attempted electronic spillage while using his personal electronic device (cameral capable cellular phone) to transmit government information. (Government Exhibit 10 and 16.)

On October 18, 2022, Applicant's supervisor asked him to build a PowerPoint, including how to navigate through the PowerPoint, that would be a shared calendar for all of their group. This calendar would track all of their leave and where they were at any given time. Applicant stated that some members of the group were having problems with that. Applicant took a screen shot of his outlook calendar on his government computer, also displaying the unclassified banner across the top and uploaded it to his Microsoft Teams group. He did this so he could show his coworkers his work schedule so they could task him as needed. Applicant explained that he was not aware that the unclassified banner was protected information and considered classified coming from a government computer. This again was considered to be an improper security procedure and an attempted electronic spillage while using his personal electronic device (cameral capable cellular phone) to transmit government information. (Government Exhibits 10 and 14.)

On November 28, 2022, while attending an excel class, he was using his cell phone and talking to members of their group, via text. He wanted to show his team what he was learning and how the class was going, so he took a picture or screen shot with his personal camera phone of the excel spread sheet that contained the unclassified banner and uploaded the picture to a personal group text to show others his progress. Shortly after this, his supervisor emailed him and told him that having the banner in the picture was considered electronic spillage, and that he needed to discuss the matter with security. On November 29, 2022, Applicant met with security and was told that the unclassified banner at the top of the screen is considered classified and makes the picture classified. This was considered to be an improper security procedure and an attempted electronic spillage while using his personal electronic device (cameral capable cellular phone) to transmit government information. The media pictures were removed from both TEAMS and from the TEAMS text. Applicant was again told by security that even though the banner states "unclassified", it is considered classified coming from a government computer. (Government Exhibits 10, 11, 12, 13.)

1.c. On December 5, 2022, Applicant was terminated from his employment for violating security procedures for handling protected information on the five occasions set forth above. (Government Exhibit 17.)

2. Guideline M – Use of Information Technology

The Government alleged that Applicant is ineligible for a clearance because he failed to comply with rules, procedures, guidelines, or regulations pertaining to information technology systems; which raise security concerns about his reliability and trustworthiness, calling into question his willingness or ability to properly protect sensitive systems, networks, and information. Information Technology includes any computer-based, mobile, or wireless device used to create, store, access, process, manipulate, protect, or move information. This includes any component, whether integrated into a larger system or not, such as hardware, software, or firmware, used to enable or facilitate these operations.

That information discussed above in subparagraphs 1.a. through 1.c.

Applicant testified that the training he has received for safeguarding classified material was good, but that it did not cover any specific information about the banner. (Tr. p. 29-30.) Applicant contends that his mistakes were inadvertent, promptly reported, and nothing was compromised. (Tr. p. 31.) He also stated that he has built PowerPoints like this before, and has sent it out to the team. Applicant stated that he now understands that this is something that should never happen again. Applicant stated that a supervisor told him that he should have cropped the banner out of the screen shot, but Applicant does not feel comfortable about doing that. Applicant testified that from his experience and background, he does not believe that he committed an electronic spillage. (Tr. p. 100-102.) If it was a security violation, in his opinion, it was minor. (Tr. pp. 32-34.)

3. Guideline E – Personal Conduct

The Government alleged that Applicant is ineligible for a clearance because he has engaged in conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations which raises questions about his 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.

3.a. The five security violations discussed above are clearly indicative of questionable judgment and an unwillingness to comply with rules and regulations.

Applicant has a history of dishonesty. He has either deliberately falsified material facts or failed to report required information on many occasions. He provided false information to the Government in response to questions on several security clearance applications; he lied to his security personnel at his place of employment; and he has not been truthful with the police during their investigations.

3.b. and 3.s. Applicant completed a security clearance application dated January 20, 2023. In response to Section 13A, Employment Activities, Applicant was asked to provide dates of employment, provide most recent position title, select the employment status of this position, full time or part time, and provide the name of employer. Applicant answered that from September 2022 to January 20, 2023, that he was working full time as an Engineer Tech at a company. This response was not truthful. Applicant was terminated from this position on or about December 5, 2022, and was not employed there in January 2023 when he completed the application. It is also noted that on this security clearance application, Applicant did not disclose the fact that he has used and purchased marijuana in the last seven years. (Government Exhibit 7.)

3.c. In November 1999 Applicant was questioned by NCIS and the County Sheriff's Office regarding a report that Applicant had stolen his vehicle in order to file a fraudulent insurance claim. Applicant explained that his car was stolen, but he did not steal it. He called the Sheriff and reported the car stolen. The car was found, abandoned vandalized, and was missing some parts. Upon inspection police saw car parts in Applicant's barracks room which gave them the suspicion that Applicant was setting up a fraudulent claim. Applicant explained that he had upgraded the engine to a turbo, and he still had all the old car parts in the barracks room. The police report indicates that a witness reported that she was with the Applicant when he stripped his vehicle. (Tr. p. 108.) Another witness told law enforcement that Applicant had told them that he had done modifications that would be expensive to repair. (Tr. p. 109.) Applicant was booked in jail before being released to the Navy. The prosecutor declined to file charges. (Tr. pp.

36-37.) Applicant's insurance company considered this to be a fraudulent claim and refused to reimburse the Applicant. (Tr. p. 109.)

3.d. In February 2001, Applicant was charged with Driving While License Suspended. He failed to appear for three scheduled court dates. He was convicted of the amended charged of No Valid Operating License with Valid ID, and required to pay a fine. Applicant does not recall the failure to appear, but he paid the fine. (Tr. p. 38) Applicant explained that he continued to drive after his license was suspended because he had no other way to get to work. (Tr. p. 110.)

3.e. In May 2002 Applicant was charged with Driving While License Suspended – 3rd Degree. After he failed to appear at the arraignment hearing scheduled for July 2002, a bench warrant was issued for his arrest. Applicant stated that when he appeared in court he was told about the bench warrant. He was fined. (Tr. p. 40.)

3.f. In May 2002, Applicant was charged with Speeding and Operating Vehicle Without Liability Insurance. He was found guilty and failed to pay the required fine. He was granted a hearing, but he failed to appear. The unpaid fine of $643 was placed for collection. Applicant stated that he was not making much money and could not afford to pay the fine. (Tr. p. 41.)

3.g. In July 2002, Applicant was charged with Reckless Driving and Driving While License Suspended or Revoked – 3rd Degree. He was found guilty on both charges. For Reckless Driving conviction he was sentenced to a fine of $5,0000 ($4,500) suspended and 365 days in jail (suspended). For Driving While License Suspended or Revoked conviction, he was sentenced to a fine of $1,000 (suspended) and 90 days in jail (suspended). In about November 2002, the $500 fine he was required to pay was placed for collection, and the fine remained unpaid until about January 2005. Applicant explained that he had been speeding on his motorcycle.

3.h. In July 2002, Applicant was charged with violations of the UCMJ, Article 86, Unauthorized Absences, (7 specifications); Article 92, Failure to Obey an Order or Regulation, (4 specifications); Article 121, Larceny; Article 134, Check-Worthless, Making and Uttering. He was sentenced to a reduction in rank (suspended for six months), forfeiture of $880 month for two months (suspended for six months), 45 days of restriction, and 45 days extra duty. Applicant explained that he was a young Sailor, hanging out with other Sailors. They all had fast cars, and Applicant did too. He would race his car, at times at a race track. (Tr. p. 44.) He also stated that he was told not to ride his motorcycle and he did. (Tr. p. 114.) Applicant testified that he wrote bad checks to pay for food and other things. (Tr. p. 115.)

3.i. In June 2007, Applicant was placed under military apprehension for mutual combat/domestic. He and his spouse were in a verbal altercation during which he pushed her shoulder to get away. He was found to have blood alcohol levels of .059% and .056%. Applicant stated that he was living in Japan and his wife decided she wanted to move back to the United States. Applicant found out that she was having a relationship with someone online. Applicant turned himself into the security. After an investigation, Applicant was released back to the command and it was determined that his wife was the aggressor. His wife moved back to the United States and they divorced. (Tr. p. 45, and Government Exhibit 23.)

3.j. In May 2008, Applicant was arrested and charged with Public Intoxication. Applicant explained that he and his friends went out drinking. He had consumed between four to five, 20 ounce beers. They were hanging out in front of an establishment being rowdy and loud. He pled guilty, was granted deferred adjudication, and was required to pay a fine. (Tr. p. 46, and Government Exhibit 24.) At some point, Applicant came out of a restaurant and his car had been keyed (scratched). Applicant told the security in the parking lot that he was going inside to confront the individual that he believed keyed his car. The security officer told the Applicant that he was not going to go in there, and he arrested the Applicant. (Tr. p. 121.)

3.k. In December 2010, Applicant's ex-girlfriend filed for an Order of Protection against Applicant for assault, threats, harassing and stalking. A temporary Order of Protection was issued before the case was ultimately dismissed. Applicant stated that he does not know why she filed for the Order of Protection. Applicant stated that his Chief of the boat recommended that he attend a Victim's Panel or counseling for Anger Management. He completed those classes and found them to be helpful. He realized that he was in a toxic relationship and could see flags that meant he should separate himself from that situation. (Tr. p. 46-48, and Government Exhibit 25 and 26.)

3.l. In December 2010, Applicant's ex-girlfriend reported to the Navy that he physically assaulted her on several occasions and verbally abused her and threatened her. In July 2011, Applicant was questioned by the Navy and denied ever assaulting her. On June 20, 2012, Applicant was issued a Letter of Intent for providing a False Official Statement and was recommended to take Anger Management classes. Applicant stated that once he completed the Anger Management classes there was no outcome. His Chief would check up on him from time to time. (Tr. pp. 50.)

3.m. In March 2011, Applicant was issued a Letter of Instruction for poor performance of duties. Applicant stated that his commanding officer issued this Letter of Instruction to correct Applicant's bad behavior before it became worse. (Tr. p. 51.)

3.n. In September 2017, Applicant was arrested for Reckless Driving – Willful or Wanton Disregard, and Driving Under the Influence of Alcohol after he lost control his motorcycle while racing another driver. Applicant stated that his motorcycle crashed and he was knocked unconscious. He was found unconscious on the side of the road. When he came to, he saw lots of lights and a medical team above him. He told law enforcement that he had not consumed any alcohol and refused to perform sobriety tests. Applicant's blood alcohol contents were .12%. In January 2018, Applicant was charged with Reckless Driving and Driving Under the Influence. He pled guilty to the amended charges of Negligent Driving in the 1st Degree and Reckless Driving. For the Negligent Driving in the 1st Degree he was sentenced to 90 days in jail (85 suspended) and a $1,000 fine (suspended). For the Reckless Driving, he was sentenced to 364 days in jail (359 suspended) and a $5,0000 fine ($4,009 suspended). He was also sentenced to 24-months probation, required to obtain a substance use disorder evaluation within 30 days, and complete a DUI victim panel within 120 days, prohibited from consuming alcohol or non-prescribed controlled drugs and required to keep the court informed of any change of address. In January 2019, the District Court Probation recommended that the court impose two days of jail time because Applicant had not contacted probation, as required, and he had not provided proof of completing the substance abuse assessment and/or proof of completing the victim's panel. Applicant stated that he satisfied the sentencing requirements imposed by the court but for the most part, but he relied on his attorney to handle the matter. He stated that he was found not to have a substance use disorder. (Tr. pp. 56-57, Tr. pp. 128-140, and Government Exhibit 27.)

3.o. In February 2018, Applicant was arrested and charged with Theft (Domestic Violence) after he was suspected of taking his spouse's belongings, including her wallet. Police observed that Applicant appeared to be under the influence of alcohol at the time of the incident. Applicant's spouse reported that he threatened her the night before and she suspected that he left a rock on the dashboard of her car, prompting her to file the police report. She requested that he be required to complete an alcohol program and anger management courses. Applicant pled not guilt. A no-contact order was entered against him and he was prohibited from possessing or consuming any alcohol, marijuana or non-prescribed drugs and was required to surrender his weapons as a result of the charge, which was later dismissed. Applicant stated that he and his wife were going through a separation, as she was living with her parents, and he was living at home with his father who had moved in with him. He and his father were consuming alcohol. His wife came to get her things and accused him of taking her wallet. She called the police and he was arrested. (Tr. p. 58, and Government Exhibits 28, 29, and 30.)

3.p. From November 2017 through September 2020, Applicant purchased and used marijuana with varying frequency. He stated that he was using and purchasing marijuana after retiring from the Navy. He remembers using it while he was doing end-of-life care for his father in 2020. His father passed away later that year. (Tr. p. 60.) At this time, Applicant was still on probation from his DUI that prohibited him from using alcohol, marijuana, and any other non-prescribed controlled substances. Probation was in effect until at least October 2020. Applicant violated this probation by using marijuana.

3.q. Applicant also used marijuana from October 2018 through September 2020 in violation of the terms of his probation for the convictions set forth in subparagraph 1.n., which prohibited him from using any non-prescribed controlled substance. Applicant believes he gave the wrong dates to the investigator. He believes that he was working and getting urinalysis in October 2018, and that he would not have been using marijuana at that time. Although the dates don't add up for him, he admits that he did use and purchase marijuana around this time. (Tr. p. 62.) Applicant stated that he completed an alcohol and drug information course on February 18, 2019. (Tr. pp. 136-137.)

3.r. Applicant completed a security clearance application dated August 15, 2022. (Government Exhibit 6.) In response to Section 23 – Illegal Use of Drugs or Drug Activity Use of Drugs or Controlled Substances, Applicant was asked if in the last seven years has he used any drugs or controlled substances; and has he illegally purchased any illegal drugs? Applicant responded, "NO", to the question. This response was not truthful. Applicant had in fact used and purchased marijuana as discussed in 3.p above. Applicant stated that he does not remember completing this security clearance application. (Tr. p. 65.)

3.s. See 3.b. above .

3.t In November 2022, Applicant was consuming alcohol at the home of a female shipyard employee who called the police to assist in removing him from her home after he failed to leave when she requested him to do so. Applicant explained that he was hanging out at a house drinking with friends and she asked him to leave. He left the residence but did not drive his vehicle that was parked outside in front of her house because he was intoxicated. When the police arrived, they waited with Applicant to call a ride. Once the ride showed up, Applicant left the premises. (Tr. pp. 66-67.)

3.u. In December 2023, while intoxicated, Applicant fired his semi-automatic rifle outfitted with illegal bump-fire stock off his patio deck and one of the bullets that he fired traveled into his neighbor's home. On January 1, 2024, when police questioned him and his spouse regarding the incident, Applicant denied any involvement. He did not disclose the fact that he owned the rifle responsible for the damage and hid the rifle in another person's home in an attempt to hide it from law enforcement. In June 2024, Applicant's spouse informed police that she had denied Applicant's involvement based on past physical abuse she received from him and that he had been intoxicated and shooting firearms outside on the date in question. After she informed police where they could find the semi-automatic rifle, the retrieved firearm was found to be a match for the round recovered form his neighbor's house. On June 30, 2024, Applicant was arrested for Reckless Endangerment for dangerously discharging a firearm into his neighbor's house while intoxicated. On September 26, 2024, Applicant was charged with Reckless Endangerment. On February 27, 2025, Applicant entered a pretrial diversion agreement that is in effect for two years that requires monitoring by probation services. Applicant is also required to obtain a Substance Use Disorder evaluation and strictly comply with any no contact orders. If he complies with the terms of the agreement, the charge will be eligible for dismissal in two years. Applicant remains on probation until at least February 2027. (Tr. pp. 69-70, and Government Exhibits 35, 36, and 37.)

3.v. In June 2024 and September 2024, when Applicant was arrested and charged with Reckless Endangerment (under 3.u.), he was employed in a sensitive position. He failed to report the arrest and criminal charge to his security department, until he was confronted by security personnel about it. (Government Exhibit 36.) Applicant stated that he did not hold a security clearance and was not working in a sensitive position at that time. When his security manager reached out to him, he reported it to her. He was still going through the court process at that time and did not have any information of what the charges were going to be. (Tr. p. 74, and Government Exhibits 31 and 32.)

3.w. In June 2024, Applicant's spouse filed a Domestic Violence Order For Protection against him. Several temporary restraining orders were entered against him pending consideration for criminal charges before the motion for protection was denied in August 2024. Applicant contends that there was no domestic violence. She requested a protection order against him because he had requested one against her. She broke into Applicant's house and was stealing things. The Sheriff was called and he suggested that he file a domestic violence charge against her. They were in the process of divorce. Applicant did not have any information regarding when the divorce was filed or finalized. (Tr. p. 77, and Government Exhibits 33 and 34.)

3.x. In March 2025, Applicant falsified material facts in a written statement he provided to his company security office regarding the Reckless Endangerment charges set forth in subparagraph 3.t. above. In his written statement, Applicant indicated that on December 31, 2023, he and his friends were target shooting on his 5 acre property which is allowed in his county. A bullet left the range and struck an adjacent property. Applicant was contacted the next day by the local sheriff department concerning the incident. Applicant denied that the round came from his firing range. In truth, the shooting was not legally permitted on Applicant's property because the combined acreage of his two parcels of property is only 3 acres. Applicant does not have a permitted shooting range, and he was shooting at a prohibited hour of day. Applicant was shooting an automatic rifle equipped with an illegal bump-fire stock, and his property is located within the county, which is an area that prohibits shooting. (Tr. p. 78-79.) Applicant stated that he did not report this incident to his security department because it occurred prior to his employment, and he knew that he was innocent and the matter would be dropped. (Government Exhibit 9.)

4. Guideline J – Criminal Conduct

The Government alleged that Applicant is ineligible for a clearance because his criminal conduct creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

Applicant's history of criminal conduct is set forth in subparagraphs 3.c., 3.d., 3.g., 3.h., 3.i., 3.j., 3.l., 3.n., 3.o., and 3.u., above.

5. Guideline G – Alcohol Consumption

The Government alleged that Applicant is ineligible for a clearance because he engaged in excessive alcohol consumption which often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

Applicant's history of alcohol abuse, often to the point of intoxication, is set forth in subparagraphs 3.i., 3.j., 3.n., 3.o., 3.t., and 3.u., above.

Each incident discussed in this decision reflects Applicant's irresponsible conduct and shows a pattern of immaturity, poor judgment, unreliability, and untrustworthiness.

Applicant stated that the stress he had while in the military combined with deployments contributed to a lot of his problem behavior. Being around other Sailors, blowing off steam, and going out drinking became a pattern. More recently, there have been other major changes in his life. He is now divorced from his 4th wife and has been married to his 5th wife since April 2025. He believes that he is in a better relationship and has a better wife now. He feels that he now has a completely different lifestyle. He believes that his current wife is helping to make him a better person. He stated that he strives everyday to be a better husband and the best father he can be. (Tr. p. 80.)

Applicant stated that he has received counseling, and has voluntarily taken firearm safety classes. He now attends church, and has been speaking to his pastor, his support group, and has been sharing experiences. These things have been helpful for him. He has done a lot of self-reflection. He now tries to surround himself with better people who will help to uplift him. (Tr. pp. 83-84) He further stated that there is nothing that anyone could ever use against him that would cause him to risk the national security or the lives of our military members. (Tr. pp. 85-86.)

Applicant further stated that the Alcohol Use Disorder evaluation he took did not lead to a diagnosis of an Alcohol Use Disorder. He stated that he very rarely consumes alcohol anymore. His wife does not drink and so that is uplifting and encouraging for him. On occasion if they go to dinner, Applicant may have a beer. However, he contends that he no longer becomes intoxicated. He was last intoxicated during his arrest on December 31, 2023. He most recently had a drink of alcohol on his anniversary on April 25 or 26, 2026. (Tr. pp. 87-88.)

During his military career, Applicant received a number of awards and commendations for outstanding performance on the job in June 2008; October 2007; August 2007; March 2005; March 2003; May 2001; November 1997 through January 2002. He also received other awards and commendations including a Good Conduct award in July 2006; the Navy and Marine Corps Achievement Medal in December 2006; the Navy Commendation Medal, twice, (Gold Star in lieu of the second award), in August 2017, among other accolades. (Applicant's Exhibit C.)

Several letters of recommendation were admitted from military associates and long-time friends who have either worked with or known Applicant for many years. Those with military background have had the opportunity to observe his conduct, demeanor, and performance in demanding operational environments, and attest to his good character, trustworthiness, and dependability. They consider him to be intelligent, reliable, and a person with a good heart, and strong drive. His friends describe him as a kind, friendly, helpful, individual. Applicant is said to have a good head on his shoulders, but as a human like all people, he has made some mistakes in his past that they are aware of. Those with military background who have worked with him have no reservations regarding his suitability for access to classified information. (Applicant's Exhibit D.)

Applicant submitted a copy of a Drug and Alcohol Assessment he underwent on January 4, 2018. He underwent this assessment to satisfy the court's sentencing requirements related to his arrest for Driving Under the Influence charge amended to Negligent Driving in the 1st degree that occurred on September 23, 2027. The assessment indicates that Applicant's report of the individual is not congruent with the police narrative or the toxicology test results. His BAC at the time of the incident was .22. Applicant reported to the assessor that he first consumed alcohol at 19 years of age, and regularly used it thereafter. His normal drinking pattern is 1 to 5 beers approximately 3-4 times per week. He also reported no prior involvement in any behavioral health programs. At that time, Applicant's test result using the DSM-5 diagnostic criteria and his self-reported substance use indicates that he does not meet the criteria for placement into a treatment program. His results on the ASAM Treatment Placement survey placed him at an outpatient level 0.5 care recommendation. It further states that, "the above diagnosis and recommended level of care are contingent upon [Applicant's] accurate disclosure of his use history and/or prior and current charges. If this information proves to be inaccurate it may facilitate the reassessment of this client." (Applicant's Post-Hearing Exhibit A.)

There are inherent problems with this assessment. First, the assessment was not based on a full and candid self-reporting by the Applicant of his criminal history. Applicant only disclosed his one DUI, the one that occurred on September 23, 2017. He did not disclose or report prior alcohol related arrests in 2007 and 2008. He was not truthful with the assessor during this evaluation. Second this report is old. Since this assessment, Applicant has incurred more alcohol-related arrests, which makes this report moot for current consideration. Its only value is to show that he complied with the court's request to obtain the assessment at that time, even though the assessment was not based on accurate reporting. (Applicant's Post-Hearing Exhibit A.)

Policies

When evaluating an applicant's suitability for national security eligibility, 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

1. Guideline K - Handling Protected Information

The security concern relating to the guideline for Handling Protected Information is set out in AG ¶ 33:

> Deliberate or negligent failure to comply with rules and regulations for handling protected information-which includes classified and other sensitive government information, and proprietary information-raises doubt about an

individual's trustworthiness, judgment, reliability, or willingness and ability to safeguard such information, and is a serious security concern.

The guideline notes several conditions that could raise security concerns under AG ¶ 34. Three are potentially applicable in this case:

(c) loading, drafting, editing, modifying, storing, transmitting, or otherwise handling protected information, including images, or any unauthorized equipment or medium;

(g) any failure to comply with rules for the protection of classified or sensitive information; and

(h) negligence or lax security practices that persist despite counseling by management.

Applicant has mishandled CUI information by deliberately and negligently sending screen shots or pictures of information containing the CUI banner running across the top of the computer screen. This conduct occurred several times, despite counseling. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 35 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 35 including:

(a) so much time has elapsed since the behavior, or it has happened 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 good judgment;

(b) the individual responded favorably to counseling or remedial security training and now demonstrates a positive attitude toward the discharge of security responsibilities;

(c) the security violations were due to improper or inadequate training or unclear instructions; and

(d) the violation was inadvertent, it was promptly reported, there is no evidence of compromise, and it does not suggest a pattern.

Applicant's deliberate and negligent misconduct in handling protected information is inexcusable. Although this misconduct occurred in 2022, it occurred on five separate occasions. Considering his background and experience, as well as 27 years possessing a DoD security clearance, Applicant knew or should have known that after the first security violation, in order to avoid future security violations, he should have immediately consulted with his security department to clear up any misunderstandings he had, and to obtain instruction on how to properly follow security procedures. He did not do that. Instead, he used his own judgment, and did what he thought was right, even though he continued to be wrong. He claims that he did not know why he was incurring security violations. He also disagrees with the security department and does not believe he committed spillage.

The Government must be able to trust the judgment of those with access to classified information. Applicant's judgment is flawed, and he cannot be trusted. He has failed to comply with rules and regulations for the proper safeguarding of classified and/or protected and sensitive information. Applicant did not use good judgment, and his conduct was irresponsible. None of the mitigating conditions are applicable. His conduct casts doubt on his current reliability, trustworthiness and good judgment. This guideline is found against the Applicant.

2. Guideline M – Use of Information Technology

The security concern relating to the guideline for the Use of Information Technology is set out in AG ¶ 39:

> Failure to comply with rules, procedures, guidelines, or regulations, pertaining to information technology systems may raise security concerns about an individual's reliability, and trustworthiness, calling into question the willingness or ability to properly protect sensitive systems, networks, and information.

The guideline notes several conditions that could raise security concerns under AG ¶ 40. Two are potentially applicable in this case:

> (d) downloading, storing, or transmitting classified, sensitive, proprietary, other protected information on or to any unauthorized information technology system; and
>
> (g) negligence or lax security practices in handling information technology that persists despite counseling by management.

Applicant has mishandled CUI information by deliberately and negligently taking screen shots or pictures containing the CUI banner running across the computer screen with his cell phone camera and sending them to others by text. He did this despite counseling. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 41 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 41 including:

(a) so much time has elapsed since the 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;

(b) the misuse was minor and done solely in the interest of organizational efficiency and effectiveness; and

(c) the conduct was unintentional and inadvertent and was followed by a prompt, good faith-effort to correct the situation and by notification to appropriate personnel.

Applicant has failed to comply with established security rules, procedures, guidelines, or regulations, that pertain to the proper protection of government information and technology systems. It could be argued that the first security violation was unintentional and inadvertent, but because the violations continued, that argument has no merit. Applicant did not use common sense. He did not ask questions to find out what the proper security procedures were that he should be following. Instead, he followed his own opinion and did as he chose. This raises security concerns about his judgment, reliability, and trustworthiness. None of the mitigating conditions apply. This guideline is found against the Applicant.

3. Guideline E - Personal Conduct

The security concern relating to the guideline 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. Four 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 national security eligibility or trustworthiness, or award fiduciary responsibilities;

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

(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; and

(f) violation of a written or recorded commitment made by the individual to the employer as a condition of employment.

Applicant has a history of dishonesty. His conduct shows a pattern of deception and falsehoods, and a failure to comply with laws, rules, and regulations. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 17 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 17 including:

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

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;

(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.

Applicant falsified material facts on two security clearance applications. On one, he represented that he was employed when he had actually been terminated a month earlier; on another, he attempted to conceal his marijuana use and purchases that occurred within the last seven years. He also provided false information in a written statement to his company security officers. He does not show remorse for his misconduct. He stated that he does not believe that he completed the August 15, 2022, security clearance application, which makes no sense. Setting that aside, he still lied in response to questions on his security clearance application dated January 20, 2023. His credibility remains in question. This pattern of dishonesty shows that he cannot be trusted. Insufficient mitigation has been shown. None of the mitigating conditions are applicable. This guideline is found against the Applicant.

4. Guideline J - Criminal Conduct

The security concern relating to the guideline for Criminal Conduct is set out in AG ¶ 30:

> Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

The guideline notes several conditions that could raise security concerns under AG ¶ 31. Four are potentially applicable in this case:

> (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;
>
> (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;
>
> (c) individual is currently on parole or probation; and
>
> (d) violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program.

Applicant's history of criminal conduct involves numerous arrests, charges, and convictions that are very troubling. Applicant remains on probation for his most recent offense that occurred just last year. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 32 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 32 including:

> (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.
>
> (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
>
> (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.

Applicant's criminal history is extensive and spans over the course of the past 27 years. Although some of his criminal conduct is old, it establishes a long history. Applicant's criminal behavior began in about 1999 and has continued until at least 2025. He currently remains on probation until at least 2027, and it is illogical to find him eligible for a security clearance when he remains subject to state oversight. Furthermore, his long pattern of criminal behavior shows a consistent failure to comply with laws, rules, and regulations. None of the mitigating conditions are applicable. This guideline is found against Applicant.

5. Guideline G – Alcohol Consumption

The security concern relating to the guideline for Alcohol Consumption is set out in AG ¶ 21:

> Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses and can raise questions about an individual's reliability and trustworthiness.

The guideline notes several conditions that could raise security concerns under AG ¶ 22. Two are potentially applicable in this case:

> (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol

> use or whether the individual has been diagnosed with alcohol use disorder; and
>
> (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

Applicant's history of alcohol abuse is extensive and evident from his many alcohol-related arrests. The evidence is sufficient to raise the above disqualifying conditions.

AG ¶ 23 provides conditions that could mitigate security concerns. I considered all of the mitigating conditions under AG ¶ 23 including:

> (a) so much time has passed, or the behavior was so infrequent, or it happened under such usual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
>
> (b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
>
> (c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
>
> (d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant's history of alcohol abuse involves a number of alcohol-related arrests. Although he completed a drug and alcohol information class in 2019, along with numerous other court ordered sentencing conditions, it did not curtail him from continuing his excessive alcohol use. In fact, Applicant remains on probation until 2027, for his most recent offense that occurred in 2025, that occurred while under the influence of alcohol. None of the mitigating conditions are applicable. This guideline is found against 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 relevant facts and circumstances surrounding this case. Applicant's military service, while not unblemished, was successful. He retired and has numerous awards and commendations for his service. However, Applicant's history of downplaying, misrepresenting, and deliberately failing to report material information that he is required to report is very troubling. Furthermore, he fails to take responsibility for his misconduct. Applicant also intentionally and deliberately mishandled protected information, although not recent, this shows poor judgment and is not excusable. In addition, Applicant has a history of poor personal conduct, involving dishonesty on security clearance applications, and in a written statement to his employer's security department; a history of criminal conduct involving numerous arrests, charges, and other encounters with law enforcement as well as military violations. Many of these offenses occurred while he was under the influence of alcohol.

Given Applicant's extensive history, he has a very heavy burden to demonstrate sufficient reform and rehabilitation in order to meet the eligibility requirements for access to classified information. Considering the evidence as a whole, Applicant's misconduct demonstrates extreme poor judgment, unreliability, and untrustworthiness. He has not demonstrated sufficient mitigation. He has failed to meet his burden of proving that it is clearly consistent with the national interests to grant his clearance. Accordingly, I conclude Applicant has failed to mitigate Guidelines K, M, E, J and G discussed above.

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 K:	AGAINST APPLICANT

Subparagraphs 1.a. through 1.c.	Against Applicant
Paragraph 2, Guideline M:	AGAINST APPLICANT
Subparagraph 2.a.	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a. through 3.x.	Against Applicant
Paragraph 4, Guideline J:	AGAINST APPLICANT
Subparagraph 4.a.	Against Applicant
Paragraph 5, Guideline G:	AGAINST APPLICANT
Subparagraph 5.a.	Against Applicant

Conclusion

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

Darlene Lokey Anderson
Administrative Judge