



**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:

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ISCR Case No. 24-02373

Applicant for Security Clearance

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel

For Applicant: *Pro se*

08/03/2026

Decision

Curry, Marc E., Administrative Judge:

Applicant failed to mitigate the security concern generated by his use of marijuana. Therefore, eligibility for access to classified information is denied.

Statement of the Case

On March 6, 2025, the Defense Counterintelligence and Security Agency Adjudication and Vetting Services (DCSA), issued a statement of reasons (SOR) setting forth allegations under Guideline H, drug involvement, as to why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. On March 25, 2025, Applicant answered the SOR, admitting the allegations and requesting a hearing, whereupon the case was assigned to me on August 6, 2025. On September 10, 2025, the Defense Office of Hearings and Appeals (DOHA) issued a notice of video teleconference hearing, scheduling the case for October 16, 2025. The hearing was postponed because of the federal government shutdown and rescheduled for December 18, 2025. The hearing was held as rescheduled. At the hearing, I received three government exhibits, marked as Government Exhibit (GE) 1 through GE 3, and I considered the testimony of Applicant. At the close of the hearing, I left the record open *sua sponte*, extending it to January 10, 2026, to afford him the opportunity to obtain his doctor's medical records. Department Counsel did not object. Within the time allotted,

Applicant submitted one exhibit that I marked and admitted as Applicant's Exhibit (AE) A. The transcript was received on December 29, 2025.

Findings of Fact

Applicant is a 25-year-old single man. He has a high school education and has earned some college credits. (Tr. 10) He has been working for a contractor as a production manager for the past three years. (Tr. 10)

In the fall of 2023, Applicant "was stricken with uncontrollable nausea, abdominal pain, uncontrollable bowel movement, and a loss of appetite." (Answer at 2; Tr. 12) At its worst, Applicant had to seek hospitalization twice per week. (Tr. 26) Ultimately, he was diagnosed with gastroesophageal reflux disease (GERD) and fatty liver disease. (Answer at 2) In the ensuing years after Applicant's diagnoses, he underwent multiple diagnostic testing, and his physician tried various medicines to treat Applicant. None worked. (Tr. 19; AE A)

Applicant began using marijuana in the spring of 2023 and noticed that it was an effective "natural alternative for nausea suppression, [and it] improved his condition." (Answer at 2; Tr. 87) He used marijuana approximately three to four times per week, purchasing it at a dispensary in his state of residence, where it is legal. (Tr. 21-22) Before he started using marijuana, he never had more than two consecutive days without symptoms. (Tr. 12)

When Applicant first started using marijuana to treat his symptoms, his doctor advised him to get a medical marijuana authorization card. (Tr. 16) Applicant declined because he heard that it was "a death sentence" to clearance maintenance. (Tr. 16) The doctor, in a medical note, (AE A) discusses Applicant's use of marijuana but he does not explicitly state that he prescribed marijuana to Applicant.

In October of 2025, Applicant's doctor prescribed him dicyclomine to control his GERD symptoms. (AE A) This medicine proved to be successful. (Tr. 22) Applicant was reluctant to stop his marijuana use for the next two months because he "didn't feel comfortable stopping [it] because [he] didn't want to keep having episodes where [he] could puke or keep because he going to the hospital and coming back from the hospital and coming back." (Tr. 17)

When Applicant answered the SOR in March 2025, he admitted that he would continue to use marijuana in the future. He last used marijuana in early December 2025 approximately two weeks before the hearing. (Tr. 18) He knew that marijuana was illegal under federal law. He contends that he will not use it again now that his symptoms are under control (Tr. 14)

Policies

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security, emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). 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 required to be considered 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge’s overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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 national security is the paramount consideration. AG ¶ 1(d) 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. 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 applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances considering the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

Analysis

Guideline H, Drug Involvement

Under this guideline, “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.” (AG ¶ 24)

Applicant’s history of marijuana use triggers the application of AG ¶ 25(a), “any substance misuse,” and his expressed intention to continue to use marijuana in response to SOR subparagraph 1.b, triggers the application of AG ¶ 25(g), “expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.”

Applicant contends that he used marijuana to help control symptoms from a serious chronic disease. For approximately two years, he tried other medications, and none were successful at controlling the symptoms. Moreover, he noted that marijuana is legal in his state of residence.

Regardless of marijuana’s efficacy at treating certain ailments or its legality in Applicant’s state, it remains illegal under federal law and has not been cleared as a prescription drug by the Food and Drug Administration. (21 U.S.C. § 801 *et. seq.*) Given Applicant’s comprehensive testimony about his marijuana use, I conclude that his explanation that he was using it for his medical condition, rather than recreationally, was credible. However, given that marijuana remains illegal under federal law, his use poses an ongoing security concern regardless of whether it was legal under state law. Under these circumstances, none of the mitigating conditions apply.

Whole-Person Concept

The awarding of a security clearance is not a once in a lifetime occurrence but is based on current disqualifying and mitigating conditions. Under Applicant’s current circumstances, a clearance is not recommended, but should he be afforded an opportunity to reapply for a security clearance in the future, and if he continues to forego marijuana use, he may ultimately mitigate the drug involvement security concern. A security clearance currently, however, is not warranted.

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 H:

AGAINST APPLICANT

Subparagraphs 1.a – 1.b:

Against Applicant

Conclusion

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

Marc E. Curry
Administrative Judge