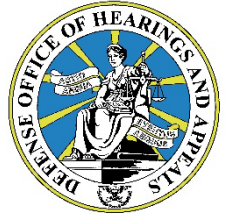




**DEFENSE LEGAL SERVICES AGENCY
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
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ISCR Case No. 24-02397

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)
Applicant for Security Clearance)
_____)

Appearances

For Government: Daniel O'Reilley, Esq., Department Counsel
For Applicant: *Pro se*

08/20/2026

Decision

FOREMAN, LeRoy F., Administrative Judge:

Applicant mitigated the security concerns under Guideline J (Criminal Conduct). He did not mitigate the security concerns under Guideline E (Personal Conduct) and Guideline H (Drug Involvement and Substance Misuse). Eligibility for access to classified information is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on January 17, 2024. On August 6, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines H, E, and J. Applicant answered the SOR on March 25, 2026, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on April 30, 2026. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. He received the FORM on May 21, 2026, and responded timely. The case was assigned to me on July 24, 2026.

The Government's FORM consists of the SOR (Government Exhibit (GE) 1); Applicant's answer to the SOR (GE 2); and the documents submitted in support of the allegations in the SOR (GE 3-11). GE 3 through 11 are admitted into evidence, without objection. Applicant's response to the FORM (Response) consists of two letters of recommendation, which have been marked Applicant's Exhibit (AE) A and admitted into evidence without objection.

Findings of Fact

Applicant is 35 years old, has never married, and has no children. He earned his bachelor's degree in 2023 and has no prior military service. He has been employed by his current government contractor sponsor since November 2023. This is his first security clearance application. (GE 3)

Drug involvement, substance misuse, and criminal conduct

The SOR alleges under Guidelines H and J Applicant's history of drug involvement, substance misuse, and criminal conduct. He admits all the allegations under Guidelines H and J. (GE 1-2)

Applicant used marijuana with varying frequency from 2007 to at least September 2023 (SOR ¶¶ 2.a and 3.a). He first used marijuana when he was approximately 17 years old and was a regular user throughout his early twenties. He developed an "addiction" to marijuana and indulged in it "for much of his life." (GE 2 at 2-3) His last use was when he was 33 years old. (GE 3; 4) He avers that he has learned from his mistakes, changed his environment and friends, and now leans on his religious upbringing to abstain from drug use. (GE 2 at 2) He also makes healthier lifestyle choices. (GE 2 at 3)

Applicant was arrested in January 2010 and charged with two counts of felony possession of marijuana with the intent to distribute (SOR ¶¶ 2.b, 3.a). His rap sheet reflects a January 2010 charge that resulted in a conviction for simple possession; he was sentenced to 12 months in jail, six months suspended. He served 90 days in jail. (GE 3-4; 10)

In August 2012, Applicant was driving on a suspended license and struck another vehicle. He did not stop and instead left the scene without providing information required by law. Police officers arrived, canvassed the area, and conducted a detailed investigation. Applicant was apprehended a short distance away and questioned by police. He initially denied any involvement and said it was his girlfriend's vehicle and claimed that she had asked him to inspect the damage. After further questioning, he finally admitted his involvement and explained that he fled the scene because he was driving on a suspended license and was afraid of going to jail. He provided a written statement and drew a depiction of the accident, after which he was arrested and charged with hit and run. (SOR ¶ 3.b; GE 5 at 3-5)

In July 2015, Applicant was driving a motor vehicle while his license was suspended. He was detained by police officers, and he, the vehicle he was driving, and

his passenger were all searched. Marijuana and drug paraphernalia were recovered. He was cited for possession of drug paraphernalia and received a warning for operating a motor vehicle while his license was suspended. (GE 6) The case eventually resulted in fines being assessed for possession of drug paraphernalia. (SOR ¶¶ 2.c, 3.a; GE 7)

Applicant explains that most of his past drug use and criminal activity were actions done by a young man without sound judgment. He explains,

As a young adult with minimal regard and understanding to the choices I made that would affect me later in life I regret not grabbing ahold of this importance. I am a different person now; I am someone with the utmost self-respect and self-discipline to bad habits and choice of my past. My emotional intelligence and integrity are now the guide and foundation of my morals. (GE 2)

Personal conduct and falsifications

The SOR alleges under Guideline E several instances of falsification committed by the Applicant on three different occasions. First on January 2024, when he answered “No” in the summary portion of SCA Section 22, when asked, “Do you have any other offenses to list where the following has **EVER** happened to you? Have you **EVER** been charged with an offense involving alcohol or drugs?” and thereby failed to disclose a 2015 citation and charge for possession of marijuana and drug paraphernalia (SOR ¶ 1.a). (GE 3; 6; 10)

Applicant admitted the allegation in SOR ¶ 1.a but insisted that he was not “trying to intentionally deceive or mislead the investigator” since he had disclosed his 2008 (actually 2010) conviction.¹ The allegation specifically addressed his falsification in his SCA where he did not disclose his 2015 drug-related charge. In Section 22, Applicant disclosed a December 2008 charge for felony possession of marijuana that was reduced to a misdemeanor and resulted in conviction and a 90-day imprisonment. (GE 3 at 34) He was then asked, “Do you have any other offenses to list where the following has **EVER** happened to you? Have you **EVER** been charged with an offense involving alcohol or drugs?” He answered, “No,” and thereby failed to disclose his 2015 drug paraphernalia misdemeanor citation and resulting charges, for which he was convicted and fined \$100 and \$79 in court costs. (GE 3, 7)

Second, he falsified material facts during his January 2024 interview with an authorized investigator, when he did not correct the falsification in his SCA and did not disclose this 2015 drug paraphernalia charge when he was provided the opportunity (SOR ¶ 1.b). During the interview, he confirmed his answers in Section 22 and only admitted to a 2008 marijuana simple possession charge and denied any other drug-involved crimes (SOR ¶ 1.b). (GE 4; 6; 10) He was confronted with a January 2010 arrest for felony possession of marijuana with intent to distribute and clarified that it was the

¹ Applicant's disclosed 2008 charge had in fact occurred in 2010. After his memory was refreshed during the interview, he realized he had inadvertently provided an incorrect date on his SCA. (GE 4 at 6)

same matter that he had disclosed in his SCA as occurring in 2008. Review of his rap sheet reflects a January 2010 charge and conviction date and does not reflect any arrests or charges in 2008. (GE 10) Even after this discussion, he still did not disclose his 2015 drug paraphernalia charge and fines. (GE 4; 6; 7)

Third, he falsified material facts during his August 2024 follow up interview with an investigator, when he denied ever being involved in or charged with a hit and run and leaving the scene of an accident (SOR ¶ 1.c). (GE 4; 5) Review of the police report reveals that he also denied his involvement to police officers when he was first stopped and questioned immediately following the accident. (See discussion, *supra*; GE 5 at 3) He continued to deny this event, despite being confronted by the investigator with the facts, and only finally admitted to it in his Answer. (GE 2; 4) In his Answer, Applicant admitted to being involved in the hit and run and stated that he “only wishes these events were fresh in [his] memory the day of [his] questioning by the investigator.” (GE 2)

The SOR alleges under Guideline E that Applicant was terminated from his employment in August 2023 for violation of company policy, after having received two written warnings regarding his performance and misconduct, to include timecard fraud (SOR ¶ 1.d). (GE 4; 8) He admitted that he was terminated but stated he did not recall being accused of rule violations or theft prior to his termination. (GE 2-4; 8) Business records documenting Applicant’s employment detail various instances where Applicant received verbal and written warnings regarding his work performance, attendance, and compliance with rules and regulations, to include a May 2023 written warning about stealing time. He was terminated from employment in August 2023 and is not eligible for rehire. (GE 8)

Lastly, Applicant falsified material facts during his August 2024 interview when he stated that there were no accusations of timecard fraud, stealing, or unethical behavior during his previous employment (SOR ¶ 1.e). In his Answer, Applicant simultaneously denied that “any misconduct ... was brought to [his] attention as an issue that [he] was written up for” and yet admitted that he was written up for “stealing time.” (GE 2 at 3) He explained that when he first started with this employer, the company had a high turnover rate, and he was the only consistent employee. Because of this, he was given the assistant manager position after approximately seven months of starting, and his previous manager allowed him to clock in early to prepare for his day. He justified this by explaining that since he was by himself and there “wasn’t any consistent help,” he would not have met expected goals had he “not gone in earlier.” He continued to arrive before his shift and clock in early, even after a change in management. When it was discovered by new management, he was written up and warned that what he was doing was “stealing time.” (GE 8) He averred that he had assumed that the previous management team had discussed it with the new manager. After he was written up for it, he stopped, and it ceased to be an issue. (GE 2 at 3)

Whole Person

Applicant averred that the SCA process has been “another learning experience” and he is “taking accountability and applying it to [his] daily choices.” (GE 2 at 4) He provided two recommendation letters from his previous manager and a direct supervisor. Neither letter indicated knowledge of the allegations detailed in the SOR. Both individuals attested to Applicant’s reliability and trustworthiness and described him as responsible and professional. His direct supervisor stated, “I believe he possesses the personal and professional qualities necessary to meet the expectations associated with a security clearance, and I recommend him without reservation.” (AE A)

Policies

This case is adjudicated under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented by the DOD on June 8, 2017.

“[N]o one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to “control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy” to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.” Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge’s overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant

has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

Analysis

Guideline E, Personal Conduct

The concern under this guideline 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 information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The following disqualifying conditions are potentially applicable under this guideline:

AG ¶ 16(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;

AG ¶ 16(b): deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

AG ¶ 16(d): credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information.

Disqualifying condition AG ¶ 16(a) applies to the allegation in SOR ¶ 1.a, related to falsifications and omissions on Applicant's 2024 SCA. AG ¶ 16(b) applies to the allegations in SOR ¶¶ 1.b, 1.c, and 1.e, related to falsifications during Applicant's security interviews. Further, AG ¶ 16(d) applies to Applicant's termination from employment for his failure to comply with his employer's rules and regulations.

The following mitigating conditions are potentially applicable:

AG ¶ 17(a): the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

AG ¶ 17 (c): the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 17 (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.

Discussion of Disqualifying and Mitigating Conditions

Falsification of a security questionnaire constitutes misconduct that casts serious doubt on an applicant's judgment, reliability, or trustworthiness. ISCR Case No. 22-00657 at 4 (App. Bd. Apr. 18, 2023). Beginning with an applicant's responses in the application and continuing through the investigative phase, "the security clearance investigation is not a forum for an applicant to split hairs or parse the truth narrowly." An applicant who deliberately fails to give full, frank, and candid answers to the government in connection

with a security clearance investigation or adjudication interferes with the integrity of the industrial security program. ISCR Case No. 01-03132 at 2 (App. Bd. Aug. 8, 2002).

In cases involving falsification or omission, the Government must produce substantial evidence that the falsification or omission was deliberate and intended to deceive. ISCR Case No. 07-16511 at 3 (App. Bd. Dec. 4, 2009). In evaluating the evidence regarding the deliberate nature of a false statement or an omission, the administrative judge “must examine the statement or omission in light of the record as a whole.” ISCR Case No. 19-03939 at 3 (App. Bd. Feb. 21, 2023). Proof of intent often relies on circumstantial evidence. ISCR Case No. 24-00121 at 3 (App. Bd. Feb. 5, 2025).

In ISCR Case No. 10-04641 at 4 (App. Bd. Sep. 24, 2013), the DOHA Appeal Board explained Applicant’s responsibility for proving the applicability of mitigating conditions:

Once a concern arises regarding an Applicant’s security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.” Directive, Enclosure 2, [App. A] ¶ 2(b).

In cases involving the deliberate omission, concealment, or falsification of material information, an applicant has a “heavy burden in demonstrating evidence of reform, rehabilitation, or changed circumstances sufficient to justify a conclusion that it is clearly consistent with the national interest to grant him access to classified information.” ISCR Case No. 23-01207 at 5 (Mar. 25, 2024).

Applicant deliberately omitted or concealed his July 2015 citation and charge for possession of drug paraphernalia from his SCA and did not discuss it during his January 2024 interview. Applicant insists his failure was not deliberate, and points to his disclosure of his 2008 conviction as evidence that he was not trying to conceal his criminal history. He also deliberately denied, during his August 2024 interview, that he was involved in a hit and run in 2012. Despite there being a detailed investigation into the hit and run where he was questioned by police and arrested, he asserts he failed to recall the incident during his interview. I find Applicant’s assertions in his Answer that his failure to disclose his 2012 arrest and his 2015 citation as unintentional and due to a lapse in memory not credible. Substantial evidence for the falsification allegations are also drawn from the interview summary, which was certified by him to be accurate. (GE 4)

The 2012 motor vehicle accident Applicant was involved in was thoroughly investigated by police officers and Applicant was arrested for a hit and run. (GE 5 at 3) When police first apprehended him near the scene of the crime, he denied his

involvement. The police report includes a handwritten statement by Applicant detailing his version of events, and a drawn depiction of the vehicle accident. (GE 5 at 5) Given all this, Applicant's assertion that he did not recall this event during his interview, even after he was confronted with the facts, is not believable.

During the 2015 stop and citation, Applicant was operating a motor vehicle while his driver's license was suspended. He and his passenger were patted down by police and his vehicle was searched. Marijuana and drug paraphernalia were found, and he was fined for possession of drug paraphernalia. (GE 6) He asks to be credited for disclosing the older event as indication that he was not deliberately concealing other negative information. Given the totality of the record evidence, his claim that he did not recall this incident and only recalled an earlier 2008 (actually 2010) arrest and conviction is not credible.

AG ¶ 16(d) applies to Applicant's termination from employment in August 2023. AG ¶ 16(b) applies to Applicant failing to disclose the various warnings he received during his previous employment related to his work performance and various violation of rules and regulations. Applicant admits the termination but denies that one of the reasons for his termination was due to stealing time. Business records detail various instances where he received verbal and written warnings regarding his work performance, attendance, and compliance with rules and regulations, to include a May 18, 2023 written warning about stealing time. (GE 8) Applicant continued to deny this during his August 2024 interview and in his Answer, despite admitting in his Answer that he was written up by new management for "stealing time." (GE 2; 4)

None of the mitigating conditions apply. Applicant did not make prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts. In fact, he continued to deny some of the facts even after he was confronted and only admitted to them in his Answer. The offense is not 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. Lastly, Applicant only recently acknowledged the behavior, and the record is devoid of sufficient evidence of a change in behavior or positive steps taken to remove all doubt that his repeated untrustworthy behavior will not recur.

Guideline H, Drug Involvement and Substance Misuse

The concern under this guideline is set out in 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 following disqualifying conditions are potentially applicable under this guideline:

AG ¶ 25(a): any substance misuse (see above definition); and

AG ¶ 25(c): illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

The evidence establishing Applicant’s drug use as alleged in SOR ¶ 2.a is sufficient to establish disqualifying conditions AG ¶¶ 25(a) and 25(c). (GE 2-4; 6-7; 10)

The SOR allegations in ¶¶ 2.b and 2.c, for the purposes of a Guideline H analysis, are encompassed in the allegation in SOR ¶ 2.a; they have been appropriately cross-alleged under Guideline J. See *infra*, Guideline J discussion.

The following mitigating conditions are potentially applicable:

AG ¶ 26(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

AG ¶ 26(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.

The Appeal Board has declined to establish a bright-line rule as to the recency of drug use. “The extent to which prior drug use has become mitigated through the passage of time is a question that must be resolved based on the evidence as a whole.” ISCR Case No. 24-00571 (App. Bd. Mar. 6, 2025). An administrative judge must evaluate the

evidence and reach a reasonable conclusion as to the recency of drug-related conduct for purposes of mitigation. *Id.*

Although Applicant's last admitted use of marijuana was nearly three years ago, very little is known about the circumstances of his 16 years of drug use, which he described as a "habit" and an "addiction." (GE 2) In the absence of a hearing, I was unable to question Applicant or assess his credibility based on demeanor. His representations in the interrogatory response and his Answer are insufficient for me to conclude that his conduct is mitigated based on the passage of time or cessation of use. The circumstances surrounding his conduct were not unique, and absent additional evidence, his behavior continues to cast doubt on his current reliability, trustworthiness, and good judgment. AG ¶ 26(a) is not established.

Applicant stated that he has changed environments and friends that might risk exposure to illegal drugs, and that he leans on his religious beliefs to continue abstaining and living a healthy lifestyle. But he did not explain the environments and associations that had caused him problems in the past. Given the length and severity of his use, attestations alone with no corroborating evidence to support an established pattern of abstinence are insufficient. Further, Applicant did not submit a signed statement of intent as contemplated under AG ¶ 26(b)(3). AG ¶ 26(b) is not fully established.

Guideline J (Criminal Conduct)

The security concern 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 following disqualifying conditions are potentially applicable under this guideline:

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

AG ¶ 31(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.

Applicant's admissions, the record evidence of his marijuana use, and his various arrests and citations establish disqualification under AG ¶¶ 31(a) and 31(b).

The following mitigating conditions are potentially applicable:

AG ¶ 32(a): so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is

unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

AG ¶ 32(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.

Mitigation is established. AG ¶ 32(a) is established because the last known date of criminal activity or contact with law enforcement was in 2015. The passage of over 10 years with no new criminal activity is sufficient to establish that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment. AG ¶ 32(d) is established because Applicant complied with the terms and conditions of his sentence, maintained employment, and has provided recommendation letters attesting to his positive character traits, reliability, and trustworthiness.

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 H, E, and J in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

I considered two letters of recommendation submitted by Applicant. However, to the extent that it bolstered Applicant's character, even a favorable reputation for honesty and reliability must be discounted in the face of proven acts of falsification. See ISCR Case No. 94-1109 at 4 (App. Bd. Jan. 31, 1996).

After weighing the disqualifying and mitigating conditions under Guidelines H, E, and J and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns related to drug involvement and substance misuse, and personal conduct.

Formal Findings

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

Paragraph 1, Guideline E:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraphs 2.b-2.c:	For Applicant
Paragraph 3, Guideline J:	FOR APPLICANT
Subparagraphs 3.a-3.b:	For Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge