DATE: October 31, 2007

In Re:	)	
	)	
----------	)	ISCR Case No. 06-21497
SSN: ----------	)	
	)	
Applicant for Security Clearance	)	
	)	

DECISION OF ADMINISTRATIVE JUDGE
ROBERT J. TUIDER

APPEARANCES

FOR GOVERNMENT
Eric Borgstrom, Esq., Department Counsel

FOR APPLICANT
Pro se

SYNOPSIS

Applicant's history of criminal conduct consisting of five arrests over a six-year period, four of which involved physical altercations requiring law enforcement involvement, and deliberate falsification of his security clearance application raised criminal and personal conduct concerns. Although Applicant submitted evidence of good character/job performance, he was unable to overcome or sufficiently mitigate concerns raised. Clearance is denied.

STATEMENT OF THE CASE

On January 3, 2005, Applicant submitted a Security Clearance Application (SF 86).[1] On March 6, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to him, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry,* dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended, modified and revised.[2]

The SOR alleges security concerns under Guidelines J (Criminal Conduct), and E (Personal Conduct). The SOR detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for him, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In an answer dated and notarized on January 15, 2007, Applicant responded to the SOR allegations and requested a hearing. The case was assigned to me on July 16, 2007. On July 20, 2007, DOHA issued a notice of hearing scheduling the case to be heard on August 10, 2007. The hearing was held as scheduled. The government offered four documents, which were admitted without objection as Government Exhibits (GE) 1 through 4. The Applicant offered 12 documents, which were admitted without objection as Applicant Exhibit (AE) A through N. I left the record open after the hearing to afford Applicant the opportunity to submit additional documents. The Applicant submitted additional documents, which were admitted without objection as AE M. DOHA received the transcript on August 22, 2007.

FINDINGS OF FACT

In the SOR ¶¶ 1.a. through 1.e., DOHA alleged under Guideline J that Applicant was (1) arrested, charged and convicted of criminal mischief/damage property intentionally, recklessly or negligently in April 1997; (2) arrested and charged with disorderly conduct/engage in fighting and criminal mischief/damage property intentionally, recklessly or negligently and convicted of criminal mischief/damage property intentionally, recklessly or negligently in May 1997; (3) arrested, charged and convicted of disorderly conduct/engage in fighting in April 2001; (4) arrested, charged and convicted of driving under the influence (DUI) of alcohol in April 2002; and (5) arrested, charged and convicted of harassment/strike, shove, kick in October 2002. All convictions resulted from Applicant pleading guilty. Additionally, Applicant admitted these allegations as well as SOR ¶ 1.f. At the time of these arrests, Applicant was age 25, 26, 29, 30, and 31, respectively.

[1]Government Exhibit (GE) 2 (Standard Form (SF) 86, Security Clearance Application) was signed by Applicant on January 3, 2005. The Government also offered GE 1, an SF 86, submitted on January 12, 2005. The SOR refers to GE 2, which alleges falsification concerns under Guideline E.

[2]On Aug. 30, 2006, the Under Secretary of Defense (Intelligence) published a memorandum directing application of revised Adjudicative Guideline to all adjudications and other determinations made under the Directive and Department of Defense (DoD) Regulation 5200.2-R, *Personnel Security Program* (Regulation), dated Jan. 1987, as amended, in which the SOR was issued on or after Sep. 1, 2006. The revised Adjudicative Guidelines are applicable to Applicant's case.

Applicant denied the remaining allegation in SOR ¶ 2.a., which alleged that he intentionally falsified a response in his SF 86 regarding his arrest record. In addition, after a thorough review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is a 36-year-old senior systems engineer, who has worked for his defense contractor employer since June 2004. He also has been a member of the Army National Guard since February 1996, and holds the rank of Sergeant First Class (pay grade E-7). With prior service in the Army Reserve and Marine Corps, Applicant estimates he has 19 years of service. Applicant seeks to renew his security clearance for his civilian job. However, both positions require Applicant to maintain a security clearance. Tr. 64-65.

Applicant is married to his third wife and has two children, a nine-year-old son, and a one-year-old daughter. He was married to his first wife from November 1992 to May 1994, and married to his second wife from August 1997 to December 2001. Those marriages ended by divorce. He married his third wife in April 2004. He has custody of his son, who was born during his second marriage. Tr. 63. Applicant is a high school graduate, and has accumulated approximately 80 college level semester hours with a GPA of 3.3/3.5. Tr. 64.

At his hearing, Applicant provided explanations surrounding his five arrests which spanned a six-year period from 1997 to 2002. The April 1997 arrest involved a bar fight in which Applicant explained he was struck in the head by an unidentified assailant and in which he broke a plate glass window. He stated he did not start the fight. He explained he plead guilty because he "figured it would be easier to just pay the fine and be done with it." Tr. 17-20.

The May 1997 arrest occurred when he became involved in an altercation with his younger sister's boyfriend. He intervened to move his sister away from the boyfriend. A fight ensued in a gas station and "some merchandise and some racks were broken . . . in the store." Tr. 21-24.

The April 2001 arrest occurred when he walked into a nightclub and "got blindsided by a beer bottle." Applicant stated the individual who hit him with the beer bottle claimed he bumped into him. Applicant further stated after he left the nightclub, the individual pursued him and a fight ensued. According to the Applicant, he repeatedly tried to withdraw. Tr. 24-28.

When queried by Department Counsel whether he sought any anger management classes, Applicant responded he did not. However, he stated, ". . . not long after that, that [he decided] that I should just stay out of those places. I should just not go there anymore. So I don't go to clubs or bars anymore." Tr.28-29.

The April 2002 DUI arrest occurred following over consumption of alcohol following a softball game. Applicant stated his BAC was .10 after consuming 2 and a half beers. As part of his sentence following this arrest, he was required "to attend forty hours of alcohol awareness and there was an anger management portion of that, of that proceeding. It wasn't a one-on-one type of anger management thing, but it was kind of a group thing. We discussed situations. That's, that's about all I can recall." Tr. 29-31.

Applicant stated the October 2002 arrest occurred when he confronted six men who made unwanted overtures to his girlfriend and her friends following a bachelorette party. A fight ensued, which resulted in his being arrested. Tr. 31-34.

Question 26 of Applicant's January 3, 2005, SF 86 asks, "**26. Your Police Record - Other Offenses** For this item, report information regardless of whether the record in your case has been 'sealed' or other otherwise stricken from the court record. The single exception to this requirement is for certain convictions under the Federal Controlled Substances Act for which the court issued an expungement order under the authority of 21 U.S.C 844 or 18 U.S.C 3607. In the last 7 years, have you been arrested for, charged with, or convicted of any offense(s) not listed in modules 21, 22, 23, 24, or 25? (Leave out traffic fines of less than $150 unless the violation was alcohol or drug related.) Applicant answered, "No." Pertinent portions in his response the SOR, Applicant said:

> I misread the instructions on the form for paragraph 1.c. I mistakenly thought I did not have to list **any** offenses where the fine was less than $150. I submitted a statement to your agent during my interview. The incident in paragraph 1e was an oversight on my part. I had completely forgotten about this until I was interviewed by your agency. I was interviewed by [DSS Agent] about a year ago and also submitted a statement.

At his hearing, Applicant explained when he filled out his SF 86, he "had quite a bit of other things going on at the same time." He said he it took him a week to fill out the form. Tr. 38-39. He stated he had previous experience filling out a security clearance application when he applied for a top secret clearance with the Army Reserve in 1988. Tr. 39-40. At his hearing, Applicant reaffirmed his response to the SOR that he "made a mistake." Tr. 38-46. Applicant did list his April 2002 DUI arrest on his SF 86.

In conjunction with Applicant's background investigation for his security clearance, he was interviewed by an Office of Personnel Management (OPM) Special Agent in March 2006. The OPM Special Agent testified at Applicant's hearing that she asked him during the interview whether he ever been arrested and he replied "no." Knowing this was not accurate, she confronted him about the April 2001 and October 2002 arrests, which he did acknowledge and stated he misunderstood the question. It was her "impression" during the interview that Applicant was not being honest about his criminal history at the beginning of the interview, but after being confronted, "then he came forward and talked about his two unlisted arrests." Tr. 81-85.

Applicant's Army National Guard Platoon Leader testified on his behalf. He gave very favorable testimony about Applicant and considers him to be an asset to the Guard. Tr. 110-122. He also was his senior rater on one of his enlisted evaluations. AE E. Applicant submitted four reference letters. AE A through D. One of the letters was from a Captain and another was from a Sergeant First Class, both from the Army National Guard. The remaining two letters were from a long time friend and a co-worker. All four of these individuals were very supportive of Applicant. Applicant also submitted six performance evaluations reflecting above average performance in the Army National Guard. AE E through J. The same is true for two evaluations from his civilian job. AE K through M.

POLICIES

In an evaluation of an applicant's security suitability, an administrative judge must consider Enclosure 2 of the Directive, which sets forth adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into disqualifying conditions (DC) and mitigating conditions (MC), which are used to determine an applicant's eligibility for access to classified information.

These adjudicative guidelines are not inflexible ironclad rules of law. Instead, recognizing the complexities of human behavior, an administrative judge should apply these guidelines in conjunction with the factors listed in the adjudicative process provision in Section E2.2, Enclosure 2, of the Directive. An administrative judge's overarching adjudicative goal is a fair, impartial and common sense decision. Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," an administrative judge should consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a meaningful decision.

Specifically, an administrative judge should consider the nine adjudicative process factors listed at Directive ¶ E2.2.1: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns pertaining to the relevant adjudicative guidelines are set forth and discussed in the Conclusions section below. Since the protection of the national security is the paramount consideration, the final decision in each case is arrived at by applying the standard that the issuance of the clearance is "clearly consistent with the interests of 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.

In the decision-making process, facts must be established by "substantial evidence."[3] The government initially has the burden of producing evidence to establish a potentially disqualifying condition under the Directive. Once the government has produced substantial evidence of a disqualifying condition, the burden shifts to the applicant to produce evidence and prove a mitigating condition. Directive ¶ E3.1.15 provides, "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, and [applicant] has the ultimate burden of persuasion as to obtaining a favorable

[3]"Substantial evidence [is] such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the record." ISCR Case No. 04-11463 at 2 (App. Bd. Aug. 4, 2006) (citing Directive ¶ E3.1.32.1). "This is something less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "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).

clearance decision." The burden of disproving a mitigating condition never shifts to the government. *See* ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).[4]

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. It is because of this special relationship the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or 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.

The scope of an administrative judge's decision is limited. Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security clearance 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." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

Guideline J - Criminal Conduct

Guideline ¶ 30 articulates the Government's concern concerning criminal conduct stating, "[c]riminal 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."

Two Criminal Conduct Disqualifying Conditions raise a security concern and is disqualifying in this case: "a single serious crime or multiple lesser offense," and an "allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted." Guideline ¶¶ 31(a) and (c). The remaining Criminal Conduct Disqualifying Conditions do not apply. ¶¶ 31(b), (d), (e) and (f).

Applicant's admissions and the Government's evidence establish the facts as alleged in SOR ¶¶ 1.a. through 1.f.

SOR ¶ 1.f. alleges that Applicant violated 18 U.S.C. § 1001 by falsifying answers to question 26 of his 2005 SF 86. I find that he deliberately falsified his answer to question 26. I do not find his explanation that he misunderstood the question or made a mistake to be credible in light of his age,

[4]"The Administrative Judge [considers] the record evidence as a whole, both favorable and unfavorable, [evaluates] Applicant's past and current circumstances in light of pertinent provisions of the Directive, and [decides] whether Applicant [has] met his burden of persuasion under Directive ¶ E3.1.15." ISCR Case No. 04-10340 at 2 (App. Bd. July 6, 2006).

education, past experience, and the fact that he understood the remaining questions and was able to to provide accurate and truthful responses to include an April 2002 DUI arrest.

For a violation of 18 U.S.C § 1001 to occur, the falsification must be material. The Supreme Court defined "materiality" in *United States v. Gaudin,* 515 U.S.. 506, 512 (1995) as a statement having a "natural tendency to influence, or [be] capable of influencing, the decision making body to which it is addressed." *See also United States v. McLaughlin,* 386 F.3d.547, 553 (3d Cir. 2004).

If Applicant had provided an accurate answer to Question 26 of his SF 86, this accurate answer is capable of influencing the Government to deny his security clearance. His arrests are sufficiently numerous and recent and serious to jeopardize his application for a security clearance. His omission from his 2005 SF 86 is material. Accordingly, Guideline ¶¶ 31(a) and (c) apply to SOR ¶¶ 1.a. through 1.f.

Guideline ¶ 32 provides for potentially applicable criminal conduct mitigating conditions:

> (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 person was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
>
> (c) evidence that the person did not commit the offense; and,
>
> (d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

Guideline ¶ 32 does not provide a "bright line" rule for determining when a crime is "recent."[5] If the evidence shows "a significant period of time has passed without any evidence of misconduct," then an administrative judge must determine whether that period of time demonstrates "changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation." *Id.* Applicant's SOR-alleged and established conduct consisted for five separate arrests spanning a six-year period, four of which involved physical altercations. These offenses taken as a whole are sufficiently numerous, serious and recent to preclude application of Guideline ¶ 32(a).

Applicant knowingly, deliberately and voluntarily chose to omit the information about his arrest. He also plead guilty to five separate criminal offenses. There is no evidence he was pressured, forced or coerced to commit any of the offenses alleged. Guideline ¶¶ 32(b) and (c) do not apply.

Guideline ¶ 32(d) does not apply because there is an absence of or limited evidence of successful rehabilitation. There is no evidence of counseling or therapy to change his behavior and

[5]*See generally, e.g.* ISCR Case No. 98-0394 at 4 (App. Bd. June 10, 1999) (Although the passage of three years since Applicant's last act of misconduct did not, standing alone, compel the Judge to apply CC 1, as a matter of law, the Judge erred by failing to give an explanation why he did not apply that mitigating condition.

avoid the factors and stressors that led to the criminal offenses. The best evidence Applicant submitted suggesting successful rehabilitation is that he plead guilty to all five offenses. His failure to present more corroboration about his rehabilitation from mental health professionals, co-workers, neighbors, family and friends is a factor in this decision.[6] While Applicant's "good character" evidence is impressive, it did not address the underlying behavior or motivation that led him to become involved in four physical altercations requiring law enforcement intervention and one arrest for DUI within a relatively short period of time while a mature adult.

Guideline E - Personal Conduct

Under Guideline ¶ 15, "[c]onduct involving . . . lack or candor [or] dishonesty . . . can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the . . . clearance process . . . ." One personal conduct disqualifying condition is particularly relevant and is disqualifying in this case. Guideline ¶ 16(a) provides, "deliberate omission, concealment, or falsification or 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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities."

Applicant gave an incorrect anser on question 26 of his 2005 SF 86. The evidence of record establishes deliberate falsification. The question clearly asks an applicant to list all arrests not otherwise specified in the last seven years. Considering the evidence as a whole, I conclude his intent was to conceal the information about his two arrests in April 2001 and October 2002.[7]

Guideline ¶ 17(a) to (e) provides for five Guideline E mitigating conditions potentially relevant to this case:

> (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 improper or inadequate advice of authorized personnel

[6]Administrative judges "must look at the record for corroboration of Applicant's testimony." ISCR Case 02-03186 at 3 (App. Bd. Feb. 16, 2006). Moreover, a judge may consider "Applicant's failure to present documentary evidence in corroboration of his denials and explanations." ISCR Case 01-20579 at 5 (App. Bd. Apr. 14, 2004) (holding Applicant's failure to provide reasonably available corroborative evidence may be used in common sense evaluation to determine whether Applicant's claims are established). In ISCR Case 01-02677 at 7 (App. Bd. Oct. 17, 2002), the Appeal Board explained:

> While lack of corroboration can be a factor in evaluating the reliability or weight of evidence, lack of corroboration does not automatically render a piece of evidence suspect, unreliable, or incredible. . . . Evidence that lacks corroboration must be evaluated in terms of its intrinsic believability and in light of all the other evidence of record, including evidence that tends to support it as well as evidence that tends to detract from it.

[7]In ISCR Case No. 04-08934 at 2 (App. Bd. Aug. 17, 2006) the Board stated an applicant's statements about his or her intent and state of mind when an SF 86 or SF 85P was executed were relevant but not binding information. Moreover, an applicant's statements are considered in light of record evidence as a whole. *Id.* "The security concerns raised by an applicant's falsification are not necessarily overcome applicant's subsequent disclosures to the government." *See* ISCR Case No. 01-19513 at 5 (App. Bd. Jan. 22, 2004)." *Id.*

or legal counsel advising or instructing the individual specifically concerning the security clearance process. 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 caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and,

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

Guideline ¶¶ 17(a) and (b) are not applicable because Applicant did not "make a prompt, good-faith effort to correct the omission, concealment, or falsification before being confronted with the facts," and he did not assert anyone advised him not to provide the information about his arrests.

Guideline ¶¶ 17(c) to (e) are not applicable because: (1) Applicant's falsification of his SF 86 is serious, and it casts doubt on his "reliability, trustworthiness, and good judgment;" (2) he has not "obtained counseling to change the behavior or taken positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior;" and (3) he has not disclosed "positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress."

"Whole Person" Analysis

In addition to the facts discussed in the enumerated disqualifying and mitigating conditions, I have considered the general adjudicative Guideline related to the whole person concept under Guideline ¶ 2(a). As noted above, Applicant's five arrests over a six-year period while a mature adult, four or which involved physical altercations, is a sufficiently serious problem to raise a security concern. His actions with respect to criminal conduct and falsification of his SF 86 were knowledgeable and voluntary. The motivation for his failure to list his April 2001 and October 2002 arrests was to conceal past criminal conduct. These facts, taken as a whole, cast doubt on his reliability and trustworthiness.

Applicant presented some extenuating and mitigating evidence. There is no doubt he has achieved some significant accomplishments as it pertains to his Army National Guard service and his civilian employment. However, it is unfortunate that he did not address or get to the core of the underlying behavior which prompted his five arrests. It is difficult to comprehend how Applicant continued to find himself in situations leading to four unprovoked altercations requiring law enforcement intervention.

In sum, however, the likelihood of recurrence remains because insufficient evidence was presented about improvement in his overall personal behavior, and ability to avoid future

confrontation. He did not receive any professional counseling, and he may not have a clear perception of how he arrived at his current situation, and he may not understand how to avoid problematic situations in the future. The minimal evidence he presented of rehabilitation is insufficient to resolve my doubts about his reliability, trustworthiness and good judgment.

After weighing the disqualifying and mitigating conditions, all the facts and circumstances, in the context of the whole person, I conclude Applicant has not mitigated the security concerns pertaining to criminal and personal conduct. The evidence leaves me with doubts as to his trustworthiness, eligibility and suitability.

I take this position based on the law, as set forth in *Department of Navy v. Egan,* 484 U.S. 518 (1988), my "careful consideration under the whole person factors"[8] and supporting evidence, my application of the pertinent factors under the Adjudicative Process, and my interpretation of my responsibilities under the Guidelines. Applicant has not mitigated or overcome the Government's case. For the reasons stated, I conclude he is not eligible for a security clearance.

FORMAL FINDINGS

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive are:

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a. - 1.f.	Against Applicant
Paragraph 2, Guideline E:	AGAINST APPLICANT
Subparagraph 2.a.:	Against Applicant

DECISION

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 a security clearance for Applicant. Clearance is denied.

Robert J. Tuider
Administrative Judge

[8] *See* ISCR Case No. 04-06242 at 2 (App. Bd. June 28, 2006).