



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 14-00157
)
Applicant for Security Clearance)

Appearances

For Government: Eric H. Borgstrom, Esq., Department Counsel
For Applicant: Thomas Albin, Esq.
Christine Huber, Esq.

09/10/2014

Decision

MATCHINSKI, Elizabeth M., Administrative Judge:

Applicant used marijuana from high school until December 2003, when he was arrested for possession of drug paraphernalia. He committed several minor offenses while employed by a defense contractor, but there has been no recurrence in the past three years. However, personal conduct concerns are not fully mitigated. He has not accepted responsibility for falsifying his initial security clearance application, and he is now attempting to discredit previous admissions of marijuana use after age 16. Clearance is denied.

Statement of the Case

On April 22, 2014, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued a Statement of Reasons (SOR) to Applicant, detailing the security concerns under Guideline E, Personal Conduct, and Guideline H, Drug Involvement, and explaining why it was unable to find it clearly consistent with the national interest to grant or continue security clearance eligibility for him. The DOD CAF took the action 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) effective within the DOD on September 1, 2006.

Applicant answered the SOR allegations on May 21, 2014, and he requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. On July 23, 2014, the case was assigned to me to conduct a hearing to determine whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On August 1, 2014, I scheduled a hearing for August 18, 2014.

I convened the hearing as scheduled. Seven Government exhibits (GEs 1-7) were admitted into evidence without objection. Applicant testified, as reflected in a transcript (Tr.) received on August 26, 2014.

Summary of SOR Allegations

The SOR alleges under Guidelines E and H that Applicant used marijuana approximately monthly from high school (1998-2001) until at least December 2003 (SOR 1.a, 2.a); that he used marijuana while holding a security clearance (SOR 1.b, 2.a); and that he was convicted of a December 2003 possession of marijuana charge (SOR 1.e, 2.a). Also under Guideline E, Applicant allegedly falsified a February 2003 security clearance application by responding negatively to whether he had illegally used any controlled substance since the age of 16 or in the last seven years (SOR 1.c). The SOR further alleges that Applicant was arrested around June 2003 and convicted of domestic-disorderly conduct and domestic/malicious injury (SOR 1.d); that he was charged with driving with a suspended license around February 2006 (SOR 1.f); that he was arrested in July 2011 and convicted of sending a lewd text message (SOR 1.g); and that he was required to reimburse the state for welfare monies he improperly received (SOR 1.h).

When he answered the SOR allegations, Applicant admitted that he had used marijuana, but only until age 16. He denied any recollection of using marijuana after that time. He denied that he used marijuana while holding a security clearance and that he deliberately falsified his February 2003 security clearance application. Applicant admitted without explanation the charges as alleged in SOR 1.d-1.g. While he admitted that he reimbursed funds to the state, it was for child support. He denied that he had received any welfare funds.

Findings of Fact

After considering the pleadings, exhibits, and transcript, I make the following findings of fact.

Applicant is a 30-year-old high school graduate who works as an outside machinist for a defense contractor. He seeks to retain the secret security clearance that he has held since April 2003. (GE 1.)

Applicant attended high school from September 1998 to June 2001. (GE 1; Tr. 20.) He used marijuana approximately once a month at parties in high school, starting at age 14 or 15. (GE 5; Tr. 55.) After he graduated, he worked for a local supermarket from January 2002 to April 2002, as a stocker at a wine and spirit retailer from April 2002 to June 2002, and then as a machine operator for a local textile mill. (GE 2; Tr. 22.)

In early 2003, Applicant applied to work for his current employer. (Tr. 23.) On February 20, 2003, Applicant completed and certified to the accuracy of a security clearance application (SF 86). Applicant disclosed no issues of potential security concern, responding negatively to question 27:

Since the age of 16 or in the last 7 years, whichever is shorter, have you illegally used any controlled substance, for example, marijuana, cocaine, crack cocaine, hashish, narcotics (opium, morphine, codeine, heroin, etc.), amphetamines, depressants (barbiturates, methaqualone, tranquilizers, etc.), hallucinogenics (LSD, PCP, etc.), or prescription drugs? (GE 2.)

In March 2003, Applicant began working as an outside machinist, sixth class, for his employer. (GE 1; Tr. 21, 23.) In April 2003, he was granted a secret security clearance. (GE 1.)

Around June 2003, Applicant had a physical altercation with a cousin, during which Applicant threw a rock that cracked the window of his cousin's vehicle. The police arrested both Applicant and his cousin. Applicant was charged with domestic—disorderly conduct and with domestic—vandalism/malicious injury. Applicant pleaded guilty and was ordered to pay \$500 restitution and to complete 40 hours of domestic violence education. (GEs 1, 5; Tr. 35-38.)

Around September 2003, Applicant was selected into a four-year apprenticeship program at work and promoted immediately to outside machinist, third class. (Tr. 23-25.) In mid-December 2003, Applicant was driving to his then girlfriend's home early in the morning hours after finishing his shift when the police stopped him for an equipment violation. The police noticed a jackknife that was longer than could be carried legally. During a search of Applicant's vehicle, the police found a marijuana pipe containing marijuana residue. Applicant was arrested for possession of an illegal weapon and drug paraphernalia. (GEs 1, 5; Tr. 39-43.) On January 8, 2004, Applicant pleaded nolo contendere to misdemeanor possession of marijuana, first offense, and was assessed a fine. (GEs 3, 5, 6.)

Applicant was laid off around late October 2005. He collected unemployment until recalled to the apprenticeship program in January 2006. (GE 1; Tr. 31-32.) In February 2006, Applicant was charged with driving with a suspended license after it was discovered during a motor vehicle stop that he had not renewed his driver's license. He registered his vehicle and renewed his license, and the charge was dismissed. (GEs 1, 5, 7; Tr. 43-44.)

Applicant's apprenticeship program lasted five years instead of the expected four years because of a reduction in class hours one year due to the unavailability of instructors. (Tr. 24.) He graduated in 2009 as a first-class machinist. (Tr. 24, 27.)

In June 2009, Applicant and his then cohabitant girlfriend had a son. Around September 2009, Applicant purchased his current residence, a 1,500 square foot three-bedroom ranch that is mortgaged. (GE 1; Tr. 30-31.) Four years after they began living together, Applicant and the mother of his son ended their relationship. (Tr. 30.) Around June 2011, they began a custody battle in court. (GE 1.) In July 2011, Applicant became upset with his son's mother about whom she allowed around their son, and he sent her a text message in which he called her by a pejorative name. She complained to the police, and Applicant was charged criminally with sending a lewd text message. Applicant chose not to contest the charge because he did not want to lose work hours. He pleaded guilty, was fined, and placed on one year of probation. (GEs 1, 5; Tr. 44-46, 63.) Applicant did not inform his supervisor or his security officer at work about his misdemeanor conviction because he was unaware of any requirement to do so. (Tr. 64.)

On May 21, 2013, Applicant completed and certified to the accuracy of an Electronic Questionnaire for Investigations Processing (e-QIP) for an update of his security eligibility. Applicant responded affirmatively to the police record inquiries concerning any arrests, charges, or convictions within the last seven years. He listed the July 2011 lewd text message and February 2006 driving while license suspended (mistakenly as driving an unregistered vehicle in November 2011). Applicant also reported the 2003 marijuana and illegal weapon charges (mistakenly as occurring in January 2003 rather than December 2003), even though the charges were outside the seven-year scope of the inquiry. Applicant listed his 2004 domestic violence offense in response to inquiries of any felony charges or any convictions involving domestic violence or a crime of violence against his "child, dependent, cohabitant, spouse, former spouse, or someone with whom [he] shares a child in common." Yet he discrepantly indicated that the domestic violence was a misdemeanor and did not involve a victim covered by the inquiry. Applicant answered negatively to any illegal use of a controlled substance in the last seven years. He checked "Yes" in response to "Have you **EVER** illegally used or otherwise been involved with a drug or controlled substance while possessing a security clearance other than previously listed?" He disclosed that it happened one time, when he was "charged with paraphernalia charge on 1/2003." About any financial delinquencies, Applicant indicated that he had missed three child support payments¹ totaling about \$500, but he was "making \$187.00 weekly payments" on the debt, which was not yet resolved. Applicant added in validation of his affirmative response, "No court involvement—had wage garnishments taken out from the State of [name omitted] to pay off this debt." (GE 1.)

¹ Applicant is apparently required to reimburse the state's welfare department for assistance given his son's mother to watch their son while he works. The rate of reimbursement is \$172 a week. He missed three payments, so the state garnished his wages at \$187 a week to collect the arrearage. (GE 5; Tr. 64-65.) At his hearing, Applicant testified that the state deducted an extra \$18 from his pay for the arrearage. (Tr. 50.)

On July 30, 2013, Applicant was interviewed by an authorized investigator for the Office of Personnel Management (OPM). The investigator took notes and asked Applicant questions. (Tr. 66.) When Applicant detailed his arrests, he reportedly admitted to the investigator that the marijuana pipe found in his vehicle in 2003 belonged to him; that he started smoking marijuana in high school; that he smoked the drug once a month at parties; and that this continued until his arrest. Applicant indicated that he stopped smoking after his arrest and that he did not intend to use any illegal drug in the future. Concerning his listed debt to the state, Applicant explained that he has to reimburse the state's welfare department \$172 a week for funds used by his child's mother when she watches their son for him. He had missed three payments. The first time, he chose to give his son a birthday party. The second time, he chose to purchase Christmas presents for his son. The last time, he chose to pay for heating oil for his home. Applicant was currently paying the state \$187 a week, which apparently included something toward the arrearage. (GE 5.)

DOHA provided Applicant with a copy of the investigator's report of his July 2013 interview containing his admission to using marijuana until his 2003 arrest. Applicant was advised to read it carefully and to correct any inaccurate information. On March 20, 2014, Applicant affirmed that he had read the summary of his interview and found it to be accurate. He made no changes. (GE 5.) Applicant was asked by DOHA to address the issue of his debt to the state welfare department. He responded as he had during his July 2013 interview that he had missed three payments because he chose to pay for heating oil, and to give his son a birthday party and Christmas gifts. (GE 4.)

Applicant now denies any marijuana use after age 16. (Answer; Tr. 52.) He claims he used marijuana only at high school parties, at a frequency less than once a month, between six and eight times total. (Tr. 55-56.) He also denies ownership of the marijuana pipe found in his vehicle in December 2003. (Tr. 57.) He asserts that the pipe belonged to his then girlfriend from high school because she used his vehicle to commute to work (Tr. 41-42), but also denies knowing at the time this former girlfriend used marijuana. (Tr. 58-59.) Concerning his failure to contest the drug charge at a trial, Applicant explained, "I'm just a passive person; I'd rather just take it on the chin. I didn't think it would come back to haunt me as it is today." (Tr. 42.) About his reported July 2013 admission that he had used marijuana in high school monthly at parties and that it continued until his arrest, Applicant responded that he tried to correct the investigator, but "he just tried to keep leading me in a circle. It seemed like he did not want my answer." (Tr. 70.) About his failure to correct the investigator's report in March 2014, Applicant explained that he "was so worked up" (*i.e.*, nervous about losing his security clearance) that he must have overlooked it. (Tr. 70, 73-74.)

Despite Applicant's inconsistent accounts about his past drug use, I accept as credible that he intends no future illegal drug involvement. To Applicant's knowledge, none of his family members or his current friends uses marijuana. Within the last two years, he was at a concert when other attendees seated near him had illegal drugs. He changed his seat from the floor to the balcony to avoid them. (Tr. 80.)

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(c), 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 access to classified information will be resolved in favor 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. 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.

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

Analysis

Guideline E, Personal Conduct

The security concerns about personal conduct are articulated 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 provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

Applicant told an OPM investigator in July 2013 that he used marijuana starting in high school, approximately monthly at parties, and his use continued until his arrest in January 2003 (SOR 1.a). Available FBI and court records show his arrest was in December 2003. In March 2014, Applicant affirmed the accuracy of the investigator's summary of his interview, including the details about his marijuana use in 2003. He now denies any illegal drug involvement after age 16.

Several factors tend to substantiate that Applicant used marijuana until his arrest in December 2003. He responded affirmatively on his May 2013 e-QIP to whether he had ever illegally used or been involved with a drug or controlled substance while possessing a security clearance, disclosing the 2003 paraphernalia charge. The inquiry is not limited to use, but Applicant also did not indicate that the paraphernalia belonged to someone else. Concerning his interview with the OPM investigator, Applicant contests the accuracy of the summary only as to his reported drug use. The investigator's accurate detailing of Applicant's arrest history suggests that the investigator exercised due care in discharging his duties. There is no evidence of any motive on the interviewer's part to fabricate facts about Applicant's drug use, which occurred some ten or more years before the interview. Moreover, Applicant made no effort to correct any inaccuracies in the investigator's report about his drug use when he had the opportunity to do so in March 2014. He claims he overlooked the information, but it is more likely that he is trying to discredit his previous candid admissions of drug abuse, knowing now that the conduct could cause him to lose his clearance and potentially the job he needs to support himself and his son.

It is reasonable to infer that Applicant deliberately falsified his February 2003 SF 86 (SOR 1.c) because he responded "No" to whether he had illegally used any controlled substance "[s]ince the age of 16 or in the last 7 years, whichever is shorter." Applicant turned 16 in October 1999. Even if he mistakenly recalled the date of his arrest as January 2003, he was required to report his drug abuse that occurred after October 1999 on his SF 86. Disqualifying condition AG ¶ 16(a) applies:

(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 security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant's arrest record includes misdemeanor convictions of domestic disorderly conduct and vandalism committed around June 2003 (SOR 1.d), possession of marijuana

in December 2003 (SOR 1.e), and sending a lewd text message in July 2011 (SOR 1.g), none of which were considered serious enough to allege criminal conduct as a basis for disqualification. However, they are part of a pattern of poor judgment starting from age 15 or so when he began using marijuana, to 2012 when he missed some support payments to the state. AG ¶ 16(c) under Guideline E applies:

(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 person may not properly safeguard protected information.

Guideline E provides for mitigation of knowing false statements under AG ¶ 17(a), “the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts.” Applicant’s candid disclosures on his 2013 e-QIP and during his interview about his drug use and drug arrest were voluntary but far from prompt. The DOD granted Applicant security clearance eligibility in April 2003 not knowing about his then recent drug abuse, and there is no evidence that he corrected the record before 2013, so AG ¶ 17(a) does not apply.

AG ¶ 17(c) and AG ¶ 17(d) apply to a greater or lesser extent, depending on the personal conduct concern. These mitigating conditions provide as follows:

(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.

The personal conduct concerns raised by Applicant’s illegal drug involvement are aggravated to the extent that it continued after he was granted his DOD security clearance (SOR 1.b), but there has been no recurrence of any illegal drug involvement since his arrest in December 2003. Likewise, ten years have passed since the physical altercation with his cousin leading to his arrest for domestic disorderly conduct and vandalism. The driving with a suspended license charge in February 2006 stemmed from his failure to renew his driver’s license, and his un rebutted testimony is that he lacked any criminal intent. He explained that the lewd text message was less serious than the charge would suggest. Similarly, the evidence does not show that Applicant acted to defraud the state by accepting welfare payments to which he was not entitled (SOR 1.h). Rather, he failed to make timely reimbursement payments to the state for assistance provided his son’s mother. Clearly, one can sympathize with his desire to give his son birthday and Christmas

gifts, and heating oil is not discretionary. Nonetheless, his choice was intentional, repeated, and relatively recent. He was still repaying the state as of his May 2013 e-QIP. However, AG ¶ 17(c) applies in that the offense was less serious than it would appear from the allegation. Applicant has exhibited some reform that implicates AG ¶ 17(d) as well. The total arrearage around \$560 was paid through wage attachment, and he has otherwise complied with his support obligations.

Despite the passage of “so much time” since Applicant’s false response to the drug inquiry on his February 2003 SF 86, it is difficult to mitigate his falsification under AG ¶ 17(c) or AG ¶ 17(d). Applicant has yet to acknowledge his response to the SF 86 drug inquiry was knowingly false. Applicant’s disclosure to the OPM investigator of his past drug use is favorable evidence, but it is not a substitute for admitting that he omitted his drug use from his SF 86 in 2003. Furthermore, Applicant undercuts his reform by now denying any marijuana use after age 16 and any ownership of the marijuana paraphernalia in his vehicle in December 2003. Given the irreconcilable differences between his statements to the investigator, which in March 2014 he certified as accurate, and his present denials of any drug use after high school, it is difficult to conclude that untrustworthy or unreliable behavior is unlikely to recur. The personal conduct concerns raised by his falsification are not fully mitigated.

Guideline H, Drug Involvement

The security concern for drug involvement is set out in AG ¶ 24:

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual’s reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations.

Under AG ¶ 24(a), drugs are defined as “mood and behavior altering substances,” and include:

- (1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens),² and
- (2) inhalants and other similar substances.

Under AG ¶ 24(b), drug abuse is defined as “the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.” Disqualifying condition AG ¶ 25(a), “any drug abuse,” applies because Applicant abused marijuana from age 14 or 15 until December 2003, when he was arrested for possession of drug paraphernalia after a pipe containing marijuana residue was found in his vehicle during a routine traffic stop. AG ¶ 25(c), “illegal drug possession, including cultivation, processing,

²Schedules I, II, III, IV, and V, as referred to in the Controlled Substances Act, are contained in 21 U.S.C. § 812(c). Marijuana is a Schedule I controlled substance.

manufacture, purchase, sale, or distribution; or possession of drug paraphernalia,” is established in that Applicant possessed marijuana when he used it and, as he admitted during his subject interview, he owned a marijuana pipe in at least 2003. Evidence also supports AG ¶ 25(g), “any illegal drug use after being granted a security clearance,” because Applicant admitted to the OPM investigator that he continued to smoke marijuana until his drug arrest in 2003. Applicant’s arrest, not his defense contractor employment, appears to have been the motivation for him to stop using marijuana. It is more likely that he inaccurately recalled the date of his arrest (as January 2003) rather than January 2003 being a firm date of last use. If Applicant stopped his marijuana use in January 2003, then AG ¶ 25(g) would not apply.

In any event, there is no evidence of any illegal drug involvement by Applicant after December 2003. Applicant’s current suspect credibility on the issue of his last abuse of marijuana (e.g., claims no use of marijuana after age 16) raises concerns about his judgment, reliability, and trustworthiness as discussed under Guideline E, but it is not a substitute for record evidence of illegal drug use.³ 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,” applies. His illegal drug involvement last occurred more than ten years ago.

During his July 2013 interview with the OPM investigator, Applicant denied any illegal drug involvement since his 2003 arrest and any intent to use any illegal drug in the future. Under AG 26(b), “a demonstrated intent not to abuse any drugs in the future,” may be shown by the following:

- (1) disassociation from drug-using associates and contacts;
- (2) changing or avoiding the environment where drugs were used;
- (3) an appropriate period of abstinence; or
- (4) a signed statement of intent with automatic revocation of clearance for any violation.

There is no evidence that Applicant continues to associate with his old high school friends with whom he used marijuana at parties. He candidly admitted at his hearing that he was at a concert within the past two years where attendees seated near him had illegal drugs. He changed his seat from the floor to the balcony to avoid them, so both AG ¶ 26(b)(1) and AG ¶ 26(b)(2) apply. No recurrence of any drug use or drug arrest in the last ten years establishes AG ¶ 26(b)(3), “an appropriate period of abstinence,” especially in

³ The DOHA Appeal Board has long held that an adverse credibility determination is not a substitute for record evidence. See e.g., ISCR Case No. 02-24452 (App. Bd. Aug. 4, 2004), in which the Board stated the following:

An unfavorable credibility determination provides a Judge with a basis for deciding to disbelieve an applicant's testimony. However, mere disbelief of that testimony, standing alone, is not a sufficient basis for a Judge to conclude that the applicant did something (e.g., engaged in drug abuse after a given date) for which there is no independent evidence.

light of Applicant's changed circumstances. Applicant used marijuana when he was 14 or 15 to age 20, before he became a father and homeowner. While Applicant did not present an affirmative statement acknowledging his understanding that his clearance would be revoked for any future illegal drug involvement, he clearly understands that any illegal drug involvement is incompatible with his defense contractor employment and security clearance. Applicant's efforts to discredit his previous admissions of ongoing marijuana involvement through 2003 reflect his desire to protect his employment rather than a failure to put his illegal drug use behind him. AG ¶ 26(b) applies in mitigation of the drug involvement concerns.

Whole-Person Concept

Under the whole-person concept, the administrative judge must consider the totality of an applicant's conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(a).⁴

Applicant's drug involvement is explained by the immaturity of youth. He committed some minor criminal offenses while employed by a defense contractor and while holding a security clearance for his duties. Applicant did not allow this pattern of poor judgment off the job to affect his work. On his completion of a selective apprenticeship program, he was promoted to his present position of outside machinist first class. While his support arrearage suggests tight finances, he has owned his home since 2005. Applicant is commended for establishing a stable lifestyle in which to raise his young son. The importance of his job to him is clear, but it cannot justify or explain the inconsistent accounts about his drug involvement that are in the record. Once a security concern arises, there is a strong presumption against the grant or continuation of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). For the reasons stated above, I cannot conclude that it is clearly consistent with the national interest to continue Applicant's security clearance eligibility at this time.

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:

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| Paragraph 1, Guideline E: | AGAINST APPLICANT |
| Subparagraph 1.a: | For Applicant |

⁴ The factors under AG ¶ 2(a) 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.

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| Subparagraph 1.b: | For Applicant |
| Subparagraph 1.c: | Against Applicant |
| Subparagraph 1.d: | For Applicant |
| Subparagraph 1.e: | For Applicant |
| Subparagraph 1.f: | For Applicant |
| Subparagraph 1.g: | For Applicant |
| Subparagraph 1.h: | For Applicant |

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| Paragraph 2, Guideline H: | FOR APPLICANT |
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| Subparagraph 2.a: | For Applicant |
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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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Elizabeth M. Matchinski
Administrative Judge