

DATE: October 8, 2003

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In Re:

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SSN: -----

Applicant for Security Clearance

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CR Case No. 02-03070

## DECISION OF ADMINISTRATIVE JUDGE

JOAN CATON ANTHONY

### APPEARANCES

#### FOR GOVERNMENT

Robert J. Tuidor, Esq., Department Counsel

#### FOR APPLICANT

*Pro Se*

### SYNOPSIS

Applicant, who is 55, has a 30-year history of criminal activity. He used drugs for most of his adult life, and he falsified his SF-86 by failing to list his numerous arrests and charges for felony offenses. In 1975 Applicant pled guilty to the felony charge of receiving stolen goods and was sentenced to two years in prison. By operation of law, the provisions of 10 U.S.C. § 986 preclude a grant of clearance, absent meritorious waiver by the Secretary of Defense. Applicant has failed to mitigate disqualifying conduct under the Drug Involvement and Personal Conduct Guidelines. Clearance is denied. Waiver is not recommended.

### STATEMENT OF THE CASE

On December 17, 2002, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, as amended and modified, issued a Statement of Reasons (SOR) to Applicant. The SOR detailed reasons why DOHA could not make a preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant, and it recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

In the SOR, the Government alleged Applicant was disqualified from obtaining a security clearance because of criminal activity (Guideline J), drug involvement (Guideline H), and personal conduct (Guideline E). In a sworn statement dated January 30, 2003, Applicant responded to the SOR and requested a hearing. The case was initially assigned to Judge Roger Willmeth, but due to caseload considerations, was subsequently assigned to me on April 21, 2003. A Notice of Hearing was issued on May 23, 2003, and I held a hearing in this matter on June 17, 2003. During the course of the hearing the Government presented 7 exhibits (Ex.), and Applicant presented 12 exhibits. Neither party presented witnesses. The transcript (Tr. ) was received June 26, 2003. By facsimile transmission dated September 24, 2003, the Applicant served me with an inquiry about the status of his case. <sup>(1)</sup>

### FINDINGS OF FACT

The SOR in this case contains 15 allegations of disqualifying conduct. Ten allegations relate to conduct charged under Guideline J, Criminal Conduct. One allegation relates to conduct charged under Guideline E, Personal Conduct. Four allegations relate to conduct charged under Guideline H, Drug Involvement.

Applicant admitted the factual allegations as set forth in subparagraphs 1.a., 1.b., 1.e., 1.f., 1.g., 1.h., and 1.i. of the SOR, involving Criminal Conduct under Guideline J. He denied the Guideline J allegation set out in 1.c. of the SOR and admitted the Guideline J allegation identified in 1.d., but denied pleading guilty to the crime alleged. He did not respond to subparagraph 1. j. of the SOR. He appeared to admit the factual allegations set forth in subparagraph 2.a., involving Personal Conduct under Guideline E. He admitted the four factual allegations set forth in subparagraphs 3.a., 3.b., 3.c., and 3.d. of the SOR, involving Drug Involvement under Guideline H. Applicant's admissions are incorporated as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of the same, I make the following additional findings of fact:

Applicant is 55 years old and employed by a Defense contractor as an ammunition handler in a small arms warehouse. Prior to his employment as a civilian, Applicant served in the U.S. military from 1967 to 1970 and from 1971 to 1989. On January 24, 1973, Applicant received an Article 15 punishment in the form of a letter of reprimand from his unit commander for smuggling, a violation of 21 U.S.C. § 952 In 1989, he retired with the rank of Master Sergeant. For some of his military service, he held a security clearance.

Applicant has a long history of criminal activity and drug dependency. In 1970 he was arrested for armed robbery, but, after an investigation, the charge was dismissed. In 1975 Applicant was arrested and pled guilty to receiving stolen goods, a felony, and sentenced to two years in prison. The prison sentence was suspended and Applicant was placed on probation for 3 years and 6 months. In 1990 Applicant was arrested for possessing a weapon of mass destruction (a sawed-off shotgun). Applicant pled guilty to an amended charge of carrying a concealed weapon, and he was required to undertake a drug and alcohol treatment program. Also in 1990 Applicant was arrested for unauthorized use of a motor vehicle, a charge which was later dismissed. In 1991 Applicant was convicted of passing worthless checks and sentenced to six months in jail. He explained that he wrote the worthless checks in order to obtain money to buy drugs. Applicant served approximately one week of the sentence and was then paroled. Also in 1991, Applicant was charged with possession of a stolen vehicle; he pled guilty to a lesser offense and received a 6 months suspended sentence. In 1992, Applicant was charged with maintaining a dwelling with controlled substances and conspiracy to possess cocaine with intent to sell and deliver. The charges against Applicant were dismissed for insufficient evidence.

In 1985, while in military service, Applicant was interviewed under oath regarding his failure to list derogatory information about his criminal history and drug use on a Form DD 398, Statement of Personal History. In the interview, Applicant denied using any dangerous or illegal drugs since leaving military service in Thailand in 1972. He stated that he did not list derogatory information about his criminal history on the Statement of Personal History because he had forgotten the dates and times of the incidents and thought that if a person was not actually convicted of a criminal offense, the offense did not show up on any records. Applicant stated that he did not believe that the derogatory information should influence whether he was granted a security clearance. He stated that he came from a religious family, he had matured, and none of the past information could be used to blackmail him or cause him to divulge classified information. He stated that his life was stable, and he wanted to be judged on his current performance.

Applicant completed and signed a security clearance application (SF-86) on June 28, 2001. Question 21 on the SF-86 reads as follows:

#### **Your Police Record - Felony Offenses**

Have you ever been charged with or convicted of any felony offense? (Include those under the Uniform Code of Military Justice.) For this item report information regardless of whether the record in your case has been "sealed" or otherwise stricken from the 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.

Applicant answered "no" to question 21. He attested to the truth of this and all other responses on his SF-86 by signing the following printed statement, which reads as follows:

My statements on this form, and any attachments to it, are true, complete, and correct to the best of my knowledge and belief and are made in good faith. I understand that a knowing and willful false statement on this form can be punished by fine or imprisonment or both. (See section 1001 of title 18, United States Code).

Applicant used drugs from 1967 to 2000. He began using marijuana in Viet Nam as a soldier, and he became addicted to heroin while on active duty in Thailand. He stated that he overcame his addiction to heroin while in Southeast Asia, but possessed, used, smuggled, and sold heroin while on emergency leave in the United States. Applicant continued to use drugs while in the military and explained that he concealed his drug use and it didn't affect his performance. After retirement from the military in 1989, Applicant was unemployed. He became addicted to crack cocaine, which he used until 2000.(Tr. 63.) During that period Applicant gave his family his retirement pay and lived in the house of a drug dealer. From 1997 to 1999, Applicant pursued and acquired an Associate Degree in human services/social work while continuing to use marijuana and crack cocaine. He

explained that he was able to pursue an academic program while on drugs because he was a "functioning addict."

At his hearing on June 17, 2003, Applicant testified that in 2001 he had experienced a religious conversion that enabled him to turn away from his past life of drug abuse and criminal activity. (Tr. 23; 47-50.) In his answer to the SOR, Applicant stated that the conversion took place in 1996. Applicant asserts that the conversion changed his life in ways that mitigate his previous acts and behavior and, consequently, he should be granted a security clearance.

## POLICIES

### General Policy Considerations and Whole Person Concept

"[No] 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 occupy a position . . . that will give the person access to such information." *Id.*, at 527. The President has restricted eligibility for access to classified information to "United States citizens whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." Exec. Or. 12968, *Access to Classified Information* § 3.1(b) (Aug. 4, 1995). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive.

Paragraph E2.2.1 of Enclosure 2 to the Directive, as amended, provides adjudicative guidelines for determining eligibility for access to classified information and defines the adjudicative process as "the careful weighing of a number of variables known as the whole person concept." In following this policy precept, adjudicators must examine a sufficient period of a person's life to determine whether the individual is eligible for a security clearance and they should consider available and reliable past and present information about the applicant that is both favorable and unfavorable. In evaluating the relevance of an individual's conduct, the adjudicator should consider (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. *See* Directive, Enclosure E2, Part E2.2.

### Criminal Conduct and 10 U.S.C. § 986

In addition to the policy guidelines discussed above, adjudicators must follow additional guidance on the granting or renewal of security clearances mandated by more recent legislative action. By Memorandum dated June 7, 2001, the Deputy Secretary of Defense promulgated policy guidance for implementing Section 1071 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, which amended Chapter 49 of Title 10 of the United States Code by adding a new section, enumerated 10 U.S.C. § 986. 10 U.S.C. § 986(1) provides, in pertinent part, that a person is disqualified from being granted a security clearance if "[t]he person has been convicted in any court of the United States of a crime and sentenced to imprisonment for a term exceeding one year." The Deputy Secretary's memorandum specifies that the provisions of 10 U.S.C. § 986(1) apply "to any DoD [Department of Defense] officer or employee, officer, director, or employee of a DoD contractor, or member of the Army, Navy, Air Force, or Marine Corps on active duty or in inactive status, who is under consideration for the issuance or continuation of eligibility for access to classified information."

Attachment 1 to the Deputy Secretary's Memorandum of June 7, 2001, provides general guidance for DoD adjudicators charged with making determinations of an individual's suitability for a security clearance under the provisions of 10 U.S.C. § 986. That guidance states that the disqualification from eligibility for security clearance under 10 U.S.C. § 986 applies to "persons with convictions in State courts . . . with sentences imposed of more than one year, regardless of the amount of time actually served."

Also attached to the Deputy Secretary's Memorandum of June 7, 2001, are revised adjudication guidelines, originally promulgated by the Special Assistant to the President for National Security Affairs in March 1997, pursuant to Executive Order 12968, which pertain to criminal conduct. The Deputy Secretary's memorandum states that these adjudication guidelines have been revised to reflect the provisions of 10 U.S.C. § 986.

The relevant revised adjudication guideline pertaining to the instant case is Guideline J: Criminal Conduct, which reads, in pertinent part, as follows:

***The Concern:*** A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

***Conditions that could raise a security concern and may be disqualifying include:***

a. Allegations or admissions of criminal conduct, regardless of whether the person was formally charged;

- b. A single serious crime or multiple lesser offenses;
- c. Conviction in a Federal or State court, including a court-martial of a crime and sentenced to imprisonment for a term exceeding one year [footnote omitted];

***Conditions that could mitigate security concerns include:***

- a. The criminal behavior was not recent;
- b. The crime was an isolated incident;
- f. There is clear evidence of successful rehabilitation.
- g. Potentially disqualifying condition . . . .above, may not be mitigated unless, where meritorious circumstances exist, the Secretary of Defense or the Secretary of the Military Department concerned has granted a waiver.

Footnote 1 in revised adjudication Guideline J reads: "Under the provisions of 10 U.S.C. § 986 (P.L. 106-398) a person who has been convicted in a Federal or State court, including courts martial, and sentenced to imprisonment for a term exceeding one year, may not be granted or have renewed access to classified information. In a meritorious case, the Secretary of Defense or the Secretary of the Military Department concerned, may authorize a waiver of this prohibition." An Administrative Judge may recommend that an applicant's case be considered or not considered for a grant of Secretarial waiver only if the Judge's decision to deny or revoke a clearance is based solely on the provisions of 10 U.S.C. § 986.

In addition to Guideline J, Adjudicative Guidelines E, Personal Conduct (Attachment 5 to Enclosure 2) and H, Drug Involvement (Attachment 8 to Enclosure 2) are also pertinent to this case

Under Guideline E, conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information. E2.A5.1.1.

Conditions that could raise a security concern and may be disqualifying include:

E2.A5.1.2.2. The deliberate omission, concealment, or falsification of relevant and material 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.

E2.A5.1.2.4. Personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation or duress, such as engaging in activities which, if known, may affect the person's personal, professional, or community standing or render the person susceptible to blackmail.

In this case, the following conditions could mitigate security concerns :

E2.A5.1.3.1: The information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability;

E2.A5.1.3.2: The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily.

Guideline H is concerned with improper or illegal involvement with drugs. Drugs are defined as mood and behavior-altering substances, including drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended, including marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens, inhalants and other similar substances. ¶¶ E2.A8.1.1.2, E2.A8.1.1.2.1, E2.A8.1.1.2.2. Guideline H defines drug abuse as "the illegal use of drugs or use of a legal drug in a manner that deviates from approved medical direction." ¶E2.A8.1.1.3. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information. ¶E2.A8.1.1.1. Conditions that could raise a security concern in this case and which may be disqualifying include:

E2.A8.1.2.1. Any drug abuse. . . .

E2.A8.1.2.2. Illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution.

Relevant conditions that could mitigate security concerns about Applicant's drug use and involvement include:

E2.A8.1.3.1. The drug involvement was not recent;

E2.A8.1.3.2. The drug involvement was an isolated or a aberrational event;

E2.A8.1.3.3. A demonstrated intent not to abuse any drugs in the future.

## Burden of Proof

An applicant's admission of the information in specific allegations relieves the Government of having to prove those allegations. If specific allegations and/or information are denied or otherwise controverted by the applicant, the Government has the initial burden of proving those controverted facts alleged in the Statement of Reasons. If the Government meets its burden (either by an applicant's admissions or by other evidence) and establishes conduct that creates security concerns under the Directive, the burden of persuasion then shifts to the applicant to present evidence in refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of conduct that falls within specific criteria in the Directive, it is nevertheless clearly consistent with the interests of national security to grant or continue a security clearance for the applicant.

A person seeking access to classified information enters into a fiduciary relationship with the Government based upon trust and confidence. Where the facts proven by the Government or admitted by the applicant raise doubts about the applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that he or she is nonetheless security worthy. In *Egan*, 484 U.S. at 531, the Supreme Court concluded that "[t]he clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." Accordingly, doubts against an applicant's security worthiness are to be resolved against the applicant.

## CONCLUSIONS

Upon consideration of all the facts in evidence, and after application of all appropriate legal precepts, factors, and conditions, including those described above, I conclude the following with respect to each allegation set forth in the SOR:

The security concern under Guideline J is that an individual's history or pattern of criminal activity raises doubts about his judgment, reliability and trustworthiness. Applicant denied the allegation in Subparagraph 1.c. of the SOR that he was punished under Article 15 of the Uniform Code of Military Justice for smuggling drugs, a violation of 21 U.S.C. § 952. The Government successfully rebutted his denial by producing an official military report of investigation that specifically stated that Applicant was administered the subject Article 15 punishment on January 24, 1973. (Ex. 7.)

Allegations set forth in Subparagraphs 1.a., 1.b., 1.d., 1.e., 1.f., 1.g., 1.h., and 1.i. of the SOR, and admitted by the Applicant, raise a concern under Guideline J that Applicant lacks sufficient judgment, reliability and trustworthiness to be entrusted with classified material. Applicant's admissions of a history or pattern of criminal activity, including arrests and charges for bank robbery, drug smuggling, possession of a weapon of mass destruction, unauthorized use of a stolen vehicle, unauthorized possession of a stolen vehicle, passing worthless checks, and maintaining a dwelling with controlled substances and conspiracy to possess cocaine with intent to sell and deliver, bring his conduct under disqualifying conditions **a.** and **b.** of revised adjudication Guideline J. His admission of allegation 1.d. of the SOR that he was arrested, convicted, and sentenced to two years of incarceration for the felony of receiving stolen goods brings his conduct under disqualifying condition **c.**

Applicant's conduct under subparagraphs 1.a., 1.b., 1.c., 1.e., 1.f., 1.g., 1.h., and 1.I meets mitigating condition **a** under revised Criminal Conduct Guideline J because it was not recent. Three of the criminal acts occurred in the 1970s and five in the 1990s. However, even though the acts are not recent, they demonstrate that the crimes were not isolated incidents, and thus mitigating condition **b** does not apply. Applicant asserts that his life has changed dramatically for the better as the result of his religious conversion and he submits exhibits consisting of one award received in 2002, several recent letters of appreciation from supervisors, performance appraisals for the past two years, and certificates of training. (Ex. A though L.) While one can conclude that Applicant's recent behavior has been positive and crime-free, this behavior is of short duration when compared with Applicant's criminal behavior, which spanned three decades. Applicant presented no clear evidence of successful rehabilitation, and thus mitigating condition **f** does not apply.

Applicant's admitted criminal behavior under allegation 1.d. of the SOR falls within disqualifying condition **c** of the revised Criminal Conduct Guideline J. Allegation 1.j of the SOR advises Applicant that disqualifying condition **c** applies to allegation 1.d and thus precludes him, by operation of law, from receiving a security clearance under these facts unless, pursuant to mitigating condition **g**, he can present meritorious circumstances for consideration by the Secretary of Defense or his designee. Applicant's case in mitigation does not demonstrate meritorious circumstances, and I therefore find against Applicant on allegations in subparagraphs 1.a. through 1.j. in the SOR under revised Guideline J, and I do not recommend that the Secretary consider a waiver of the disqualifying condition **c** conduct pursuant to mitigating factor **g**. As the remaining discussion demonstrates, the denial of Applicant's security clearance is also based on disqualifying conduct under Guidelines E and H and not solely on the Guideline J conduct which disqualifies him under the provisions of 10 U.S.C. § 986.

The security concern under Guideline E, Personal Conduct, is with conduct or behavior which demonstrates questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty or unwillingness to comply with rules and regulations. Individuals who exhibit such

conduct may not possess the personal qualities required to properly safeguard classified information. E2.A5.1.1.

Applicant's response to the Guideline E conduct alleged in the SOR appears to be an admission. (2) Subparagraph 2.a. of the SOR alleges Applicant falsified material facts on his SF-86 when he answered "no" to question 21, which asked whether he had been charged with or convicted of any felony offense. Applicant's answer to Question 21 is evidence of disqualifying conduct under Guideline E, ¶¶ E2.A5.1.2.2 and E2.A5.1.2.4.

The Government has presented prima facie evidence of Applicant's falsification of his answer to Question 21 on his SF-86. Applicant supplies no evidence that would mitigate the allegation of falsification. Additionally, in the SF-86 he signed on June 28, 2001, Applicant, in response to Question 27 of the security clearance application, admitted using marijuana and cocaine many times from July 1967 until August 1999. In an interview with a military investigator in 1985, Applicant stated he had not used illegal or dangerous drugs since leaving Thailand in 1972. (Ex. 4, at 2.) These two statements contradict one another and challenge Applicant's credibility. Mitigating condition E2.A5.1.3.1 does not apply to the facts of this case: the information withheld by Applicant is pertinent to a determination of his judgment, trustworthiness, and reliability. While Applicant's falsifications were not recent, they are not isolated incidents, and Applicant did not supply correct information voluntarily. Thus, mitigating condition E2.A5.1.3.2 is inapplicable. I find against Applicant on allegation 2.a. in the SOR under Guideline E.

The security concern identified under Guideline H is that improper or illegal involvement with drugs raises questions regarding an individual's willingness or ability to protect classified information. In his response to the SOR, Applicant admitted all Guideline H allegations: that he used marijuana on numerous occasions from July 1967 to at least 1999 ; that he used cocaine on numerous occasions from January 1989 to at least August 1999; that he possessed and used marijuana while on active duty in Thailand in 1971 to 1972 and that he possessed, used, sold and smuggled heroin and mailed marijuana to himself from Viet Nam.

Through Applicant's own admissions, the Government established a *prima facie* case that Applicant used marijuana, cocaine, and heroin. Applicant has admitted the Guideline H drug involvement specified in the SOR and identified as disqualifying conditions under paragraphs E2.A.8.1.2.1 and E2.A8.1.2.2 of Guideline H.

By his own admissions, Applicant's involvement with and use of marijuana, heroin, and cocaine spanned a period of nearly 32 years Applicant's last drug use occurred in January 2000 (Tr. 63.) Applicant's drug use is not recent, and thus mitigating factor E2.A8.1.3.1 applies. However, the facts also show that Applicant's drug use has been a life-long habit, and thus is not an isolated or aberrational event, and, accordingly, mitigating condition E2.A8.1.3.2 does not apply to the facts of Applicant's case. Applicant states that his religious conversion and subsequent faith in God have caused him to turn away from future drug use. While these assertions are no doubt sincere and may accurately describe Applicant's resolve, they are subjective and reflect his self assessments only. Applicant fails to produce evaluations from individuals trained in the rehabilitation of drug users and abusers to support his present conduct and his intent not to abuse drugs in the future. Accordingly, mitigating factor E2.A8.1.3.3 does not apply to the facts of Applicant's case, and I find against him on allegations 3.a., 3.b., 3.c., and 3.d. in the SOR under Guideline H, Drug Involvement.

In my evaluation of the record, I have carefully considered each piece of evidence in the context of the totality of evidence and under all of the Directive guidelines that were generally applicable or might be applicable to the facts of the case. Under the whole person concept, I conclude that Applicant has not successfully overcome the Government's case opposing his request for a DoD 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, Criminal Conduct (Guideline J): AGAINST THE APPLICANT

Subparagraph 1.a.: Against the Applicant

Subparagraph 1.b.: Against the Applicant

Subparagraph 1.c.: Against the Applicant

Subparagraph 1.d.: Against the Applicant

Subparagraph 1.e.: Against the Applicant

Subparagraph 1.f.: Against the Applicant

Subparagraph 1.g.: Against the Applicant

Subparagraph 1.h.: Against the Applicant

Subparagraph 1.i.: Against the Applicant

Subparagraph 1.j.: Against the Applicant

Paragraph 2, Personal Conduct (Guideline E): AGAINST THE APPLICANT

Subparagraph 2.a.: Against the Applicant.

Paragraph 3, Drug Involvement (Guideline H): AGAINST THE APPLICANT

Subparagraph 3.a.: Against the Applicant

Subparagraph 3.b.: Against the Applicant

Subparagraph 3.c.: Against the Applicant

Subparagraph 4.d.: Against the Applicant

## **DECISION**

In light of all 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 the Applicant. Clearance is denied. Waiver is not recommended.

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Joan Caton Anthony

Administrative Judge

1. I placed the 2-page facsimile in Applicant's case file. The submission was not material to a determination of his case and did not in any way influence the outcome of my decision.

2. The format of Applicant's response is ambiguous, but, taken as a whole, leads to the conclusion that he admits all allegations in subparagraphs 2. and 3. of the SOR.