

DATE: June 18, 2004

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-04673

DECISION OF ADMINISTRATIVE JUDGE

ROBERT ROBINSON GALES

APPEARANCES

FOR GOVERNMENT

Juan J. Rivera, Esquire, Department Counsel

FOR APPLICANT

Mary J. Hanson, Esquire

SYNOPSIS

Applicant's emotional turmoil and devastation over the deterioration of his 24-year marriage and the ongoing domestic dispute he had with his estranged wife and/or her boyfriend led to some aberrant behavior and incidents of alleged domestic violence against his wife and aggravated assault--reduced to assault--against the boyfriend during 1997-98. Most of the allegations were disputed by Applicant and his daughter. The court withheld adjudication of guilt on the assault charge and, with the exception of a restraining order, refused to prosecute Applicant on the other allegations. The divorce was final in 1997. He is considered fully rehabilitated. The questions and doubts as to his security eligibility and suitability have been satisfied. Clearance is granted.

STATEMENT OF THE CASE

On May 1, 2003, the Defense Office of Hearings and Appeals (DOHA), 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 and modified, issued a Statement of Reasons (SOR) to Applicant. 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 Applicant, and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

In a sworn written statement, dated June 10, 2003, and amended on December 5, 2003, Applicant responded to the allegations set forth in the SOR, and requested a hearing. The case was assigned to me on November 20, 2003. A notice of hearing was initially issued that same day, scheduling the hearing for December 18, 2003. On November 26, 2003, Applicant moved for a continuance until after January 1, 2004. I denied the motion pending further submissions. On December 5, 2003, Applicant renewed his motion for continuance, and on December 10, 2003, I granted the motion and cancelled the hearing previously scheduled. A new notice of hearing was issued on February 23, 2004, scheduling the hearing for March 18, 2004, and the hearing was held as scheduled. One joint exhibit, 13 government exhibits, and three

Applicant exhibits, along with the testimony of five Applicant witnesses (including the Applicant) were received. The transcript (Tr.) was received on March 30, 2003.

RULINGS ON PROCEDURE

During the proceeding, under Rule 201(b)(2), *Federal Rules of Evidence*, Applicant requested that official notice be taken of certain adjudicative facts as set forth in three documents furnished for consideration. There being no objection by Department Counsel, I took official notice of three state appellate court decisions related to state criminal matters.

FINDINGS OF FACT

Applicant has admitted parts of each of the factual allegations pertaining to criminal conduct under Guideline J (portions of subparagraphs 1.a. through 1.d.), and parts of, or in their entirety, each of the three factual allegations pertaining to financial matters under Guideline F (portions of subparagraphs 3.b. and 3.c., as well as 3.a. in its entirety). Those admissions are incorporated herein as findings of fact. He denied the remaining allegations or portions thereof.

After a complete and thorough review of the evidence, and upon due consideration of same, I make the following additional findings of fact:

Applicant is a 53-year-old employee of a defense contractor, and he is seeking to retain the security clearance which was initially granted to him in 1976 and again in 1981. ⁽¹⁾

Applicant was married in 1974, ⁽²⁾ and he and his wife had two daughters; one was born in 1975 and the other in 1981. ⁽³⁾ At some point in their marriage, the relationship turned sour and marital difficulties arose as his wife was seeing another man. Their financial situation was also negatively affected and they were unable to keep up with various accounts. The deteriorating personal and financial circumstances led them to separate and his wife moved out of the marital home in February 1997 into an apartment nearby, and eventually with her boyfriend. The combination of circumstances devastated Applicant and he experienced great emotional pain over the situation. ⁽⁴⁾ The relationship turned nasty and the police and courts became involved.

As a direct result of their ongoing domestic dispute and pending divorce, Applicant was involved in some incidents with his estranged wife and/or her boyfriend. On June 24, 1997, Applicant and his wife were involved in a dispute in her home in which she initially alleged he had grabbed her shoulder with his hands against her will and their 16-year-old daughter kicked her in the leg. ⁽⁵⁾ She subsequently acknowledged Applicant had merely grabbed the phone and, because he would not return it, there was a struggle. ⁽⁶⁾ The state eventually chose not to prosecute the matter. ⁽⁷⁾

The events leading up to the incident occurred when Applicant's daughter--who had briefly moved in with her mother--decided to return to her father's home. ⁽⁸⁾ Applicant took his daughter to her mother's apartment to get her things, but they were confronted by Applicant's wife who did not want them to enter the residence. ⁽⁹⁾ The wife started carrying on and yelling, and at one point starting pulling her daughter's hair. ⁽¹⁰⁾ When the wife picked up the telephone to call the police, Applicant grabbed the phone out of her hand ⁽¹¹⁾ and the daughter kicked her. ⁽¹²⁾ Applicant told his wife to simply relinquish their daughter's things and they would leave. ⁽¹³⁾ Applicant denied he grabbed his wife's shoulders. ⁽¹⁴⁾ Neither Applicant nor his daughter was aware charges had been filed against them until much later. ⁽¹⁵⁾

On June 26, 1997, Applicant's wife filed a Supplement to Petition for Injunction in which she alleged Applicant had repeatedly bothered her at her home and on the telephone, as well as threatened to kill her. ⁽¹⁶⁾ She swore the incidents had been going on for approximately one week and cited two specific incidents: the one with their daughter on June 24, 1997 and another the following day when Applicant supposedly followed her. ⁽¹⁷⁾ The petition was granted and the court ordered Applicant not to contact his wife for a period of one year thereafter. ⁽¹⁸⁾ Applicant denied he ever "stalked" his wife ⁽¹⁹⁾ or followed her, but acknowledged that he had seen her on the road on one occasion. ⁽²⁰⁾ He was "pretty mad" when he found out about her boyfriend and "might have said [he] would kill them," ⁽²¹⁾ but never

repeatedly threatened to do so.

On August 25, 1997, Applicant's wife's boyfriend was jogging on the sidewalk when Applicant and his daughter drove by. A confrontation ensued. The boyfriend reported to police that Applicant screamed obscenities at him as he drove by, made a u-turn, drove up on the grass and sidewalk, and tried to hit him, but missed.⁽²²⁾ He also reported that Applicant had been harassing "them" for some time by calling the boyfriend's apartment and harassing "them" over the phone.⁽²³⁾ Although "them" has not been identified, I assume it means the boyfriend and Applicant's wife. On October 24, 1997, Applicant was charged with aggravated assault over the alleged incident.⁽²⁴⁾ On March 18, 1998, under a plea agreement, Applicant entered a plea of *nolo contendere* to the lesser included offense of assault.⁽²⁵⁾ The court withheld adjudication of guilt, placed him on six months supervised probation, ordered him to undergo a mental health evaluation within 30 days along with any treatment deemed necessary, directed that he have no contact with the boyfriend, and assessed \$108.00 court costs and \$50.00 supervision fees.⁽²⁶⁾ Applicant completed all the conditions of probation and it was terminated on September 16, 1998.⁽²⁷⁾

The events leading up to the incident occurred when Applicant and his daughter were driving along the roadway when she noticed the boyfriend jogging. As they passed the boyfriend Applicant's daughter pointed him out to Applicant who had never seen him before.⁽²⁸⁾ To get a better look, Applicant slowed the car down and drove alongside the boyfriend when his daughter started yelling at the boyfriend.⁽²⁹⁾ Applicant resumed his normal speed and looked in his rear-view mirror and noticed the boyfriend make what he interpreted as an obscene gesture towards him.⁽³⁰⁾ Applicant made a u-turn, circled around, and pulled his car up on the grass at a distance estimated between 20 feet⁽³¹⁾ and 50 feet⁽³²⁾ away from the boyfriend. Applicant and the boyfriend exchanged words and the boyfriend eventually ran off. Both Applicant and his daughter deny Applicant tried to run the boyfriend down.⁽³³⁾

Applicant and his wife were eventually divorced in December 15, 1997.⁽³⁴⁾ Two weeks later, Applicant called his now ex-wife's residence to speak to their daughter.⁽³⁵⁾ As a result, his ex-wife filed another complaint against him alleging he had continued to threaten her with physical harm in violation of the existing restraining order--a misdemeanor.⁽³⁶⁾ The state eventually chose not to prosecute the matter. Applicant was never made aware of the complaint,⁽³⁷⁾ and denied doing what had been alleged.⁽³⁸⁾

Applicant and his ex-wife eventually accepted the new dynamics of their relationship and reconciled to some degree. She acknowledged that during their 24 years of marriage he had never demonstrated any abusive behavior towards her,⁽³⁹⁾ and his co-workers did not consider him volatile.⁽⁴⁰⁾ She married her former boyfriend and, on occasion, Applicant and their children have visited them in their home during some holidays.⁽⁴¹⁾ She subsequently split from her new husband and they are in the process of getting a divorce.⁽⁴²⁾ Applicant established a new relationship with a girlfriend who has three children, and he started paying their bills as well.⁽⁴³⁾ That relationship caused Applicant additional financial stress.⁽⁴⁴⁾

Applicant's financial situation was comfortable until about 1988. He worked many hours of overtime and had plenty of money available for vacations and purchases.⁽⁴⁵⁾ In 1988, difficulties arose when his employer abruptly curtailed overtime and his extra money evaporated.⁽⁴⁶⁾ Because he had previously overextended himself, Applicant was now unable to satisfy all his existing financial obligations and the debts continued to mount. He sought assistance through Consumer Credit Counseling (CCC), but still was unable to resolve his financial difficulties, and was advised to seek relief through bankruptcy.⁽⁴⁷⁾ Despite his wife's objections to bankruptcy, on July 20, 1995, they filed a joint voluntary petition under Chapter 7,⁽⁴⁸⁾ listing total assets, including their residence, of approximately \$150,00.00, and total liabilities of approximately \$130,000.00.⁽⁴⁹⁾ On November 1, 1995, Applicant and his wife were released from all dischargeable debts.⁽⁵⁰⁾

In September 1999, the mortgage holder on Applicant's residence filed an action seeking to foreclose the mortgage

because of Applicant's failure to make the required mortgage payments since the preceding May. (51) On January 19, 2000, the foreclosure was granted and the creditor was declared entitled to \$62,895.87, including unpaid principal, interest, charges, and fees. (52) Applicant and the creditor subsequently entered into a loan modification agreement forestalling the scheduled foreclosure sale. (53) Despite Applicant's initial intention and efforts to make the required payments, (54) it appears he could not do so. (55)

Following the bankruptcy discharge of his debts in 1995, Applicant continued to experience financial difficulties. A number of accounts became past due and were sent for collection. In January 1999, Applicant purchased a new 1999 Pontiac Grand Am for approximately \$26,000.00, of which he financed over \$21,000.00. (56) He agreed to make monthly payments of over \$400.00. (57) Applicant missed two payments and the automobile was repossessed. (58) He paid the creditor over \$1,500.00 in July 1999 and got the vehicle back. (59) The following month, the vehicle was again repossessed when Applicant was late with half of his monthly payment. (60) However, he now drives a 1991 automobile, (61) and has no outstanding debts or bills that may be over 30 days past due. (62) He no longer uses credit cards. (63)

Applicant has been employed by the same government contractor since June 1979, where he is now a senior lead electronic technician. (64) He has received achievement awards from his employer, and his co-workers have characterized Applicant's reputation for truthfulness as unparalleled. (65) He has been referred to as "a hard, honest worker who gets the job done and does it right the first time." (66)

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Conditions).

An administrative judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision set forth in Section E2.2., Enclosure 2, of the Directive, are intended to assist the administrative judge in reaching fair and impartial common sense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The Adjudicative Process factors which an administrative judge should consider are: (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.

Based upon a consideration of the evidence as a whole, I find the following adjudicative guidelines most pertinent to an evaluation of the facts of this case:

Criminal Conduct-Guideline J: A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

Personal Conduct-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.

Guideline F - Financial Considerations: An individual who is financially overextended is at risk of having to

engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, pertaining to each of the 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 must be arrived at by applying the standard the issuance of the clearance is "clearly consistent with the interests of national security,"⁽⁶⁷⁾ or "clearly consistent with the national interest." For the purposes herein, despite the different language in each, I have concluded both standards are one and the same. 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, the burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the government meets its burden, the heavy burden of persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation or mitigation sufficient to overcome the doubts raised by the government's case, and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's clearance.

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.

One additional comment is worthy of note. 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 I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

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

The government has established its case under Guideline J. Domestic disputes may cause normally reasonable and docile people to do strange things, especially if the emotions get the best of them. Things may get out of hand when the parties resort to verbal threats or intimidation or actual physical abuse, or when one party uses the court system to gain an advantage. In this instance, both Applicant and his wife did things which they would not have otherwise done were it not for the pending divorce. Applicant's wife acted unreasonably on June 24, 1997, when she refused her daughter the opportunity to retrieve her belongings from her house and pulled her hair when her daughter tried to do so. The daughter reacted to the situation and kicked her mother. The tension further increased when Applicant's wife attempted to involve the police in the dispute by calling them. Things escalated to the physical level between Applicant and his wife, and her description of the event is inconsistent. Initially, she averred Applicant had grabbed her against her will, but she later acknowledged he had merely grabbed the telephone and when she tried to grab it back there was a struggle. Unfortunately for Applicant, a police record of the incident was made, and the dye was cast. Fortunately for Applicant, calmer heads prevailed and the authorities declined prosecution.

Two days later, Applicant's wife returned to the police to file a supplement to her petition for an injunction, and merely added new "facts" to the already existing record. While he denied ever stalking her, he did acknowledge he had seen her while driving, but that would not be unusual since they lived in the same community. His wife construed observing him as stalking. Where Applicant crossed the line was when he "might have said [he] would kill them," referring to his estranged wife and her boyfriend. That threat, made even once, was sufficient for the court to order a restraining order.

The third incident, in August 1997, and the one for which Applicant was sentenced by the court when it withheld adjudication of guilt--a fact overlooked by the government in the SOR--involved an allegation of aggravated assault, reduced to assault. While Applicant entered a plea of *nolo contendere*, both he and his daughter dispute the essential facts alleged.

Finally, two weeks after the divorce was finalized, his ex-wife again reported to the police that Applicant had violated his restraining order by

continuing to threaten her with physical harm. Applicant disputed the allegation and claimed he had merely called his ex-wife to speak with their daughter. Once again, fortunately for Applicant, calmer heads prevailed and the authorities refused to prosecute.

Regardless of the disputed facts and allegations, it is clear Applicant was involved, whether innocently or intentionally, in criminal conduct to the extent that at least one threat was made and some physical contact occurred. He was charged with aggravated assault, reduced to assault, and adjudication of guilt was withheld. Applicant's criminal conduct in this regard clearly falls within Criminal Conduct Disqualifying Condition (CC DC) E2.A10.1.2.1. (*allegations or admissions of criminal conduct, regardless of whether the person was formally charged*) and CC DC E2.A10.1.2.2. (*a single serious crime or multiple lesser offenses*).

A person should not be held forever accountable for misconduct from the past, without a clear indication of subsequent reform, remorse, or rehabilitation. In this instance, Applicant underwent the court-mandated mental health evaluation and was cleared. Time heals many emotional scars, and Applicant overcame the emotional turmoil and devastation of the long-term marriage gone sour. As noted above, Applicant and his ex-wife eventually accepted their new interpersonal dynamics and have reconciled to some degree, even socializing together with her new husband--the former boyfriend. During their 24 years of marriage he had never demonstrated any abusive behavior towards her, and his co-workers do not consider him volatile. These circumstances raise Criminal Conduct Mitigating Condition (CC MC) E2.A10.1.3.1. (*the criminal behavior was not recent*), CC MC E2.A10.1.3.2. and (*the crime was an isolated incident*). Most of the alleged criminal conduct occurred during a period of emotional turmoil during June and August 1997. The most recent criminal conduct is alleged to have occurred in January 1998--over six years ago.

To the extent there was criminal conduct--and much of it is disputed by Applicant, as corroborated by his daughter--it should be considered aberrant behavior which is inconsistent with Applicant's normal demeanor, and not likely to recur. In this regard, CC MC E2.A10.1.3.6. (*there is clear evidence of successful rehabilitation*), CC MC E2.A10.1.3.3. (*the person was pressured or coerced into committing the act and those pressures are no longer present in that person's life*), and CC MC E2.A10.1.3.4. (*the person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur*) would seem to apply. In terms of pressure or voluntariness, I am not suggesting individuals directed or forced Applicant to do what he has been accused of doing. Instead, I believe the emotional turmoil and devastation of the long-term marriage gone sour exerted such pressure on him at that time that it caused him to perhaps act inappropriately, and none of those pressures are present. Consequently, I conclude that Applicant has, through evidence of extenuation and explanation, successfully mitigated and overcome the government's case with respect to Guideline J. Accordingly, allegations 1.a. through 1.d. of the SOR are concluded in favor of Applicant.

The government has generally established its case under Guideline E. Examination of Applicant's actions when his marriage deteriorated after 24 years and his wife started seeing another man, reveals conduct possibly involving questionable judgment which raises Personal Conduct Disqualifying Condition (PC DC) E2.A5.1.2.1. (*reliable, unfavorable information provided by associates, employers, coworkers, neighbors, and other acquaintances*), as well as Personal Conduct Mitigating Condition (PC MC) E2.A5.1.3.5. (*the individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*).

I am troubled by some of the allegations but even more so by the evidence which is essentially bereft of meaningful information. There are written police reports detailing accusations against Applicant, but the accompanying written statements are not attached. There are also Applicant's denials, in some instances corroborated by his daughter. Applicant's explanations, moreover, furnish significant doubts regarding the seriousness and materiality of some of the incidents, especially those which the authorities declined to prosecute. Nevertheless, there are sufficient admissions by Applicant as well as the *nolo contendere* plea which lead me to believe there is some substance to the allegations. However, essentially for the same reasons noted for the behavior under Guideline J, I conclude Applicant has, through evidence of explanation, successfully refuted, rebutted, and overcome the government's case with respect to his alleged personal conduct as it pertains to his former wife and her boyfriend. Accordingly, allegation 2.a. of the SOR is concluded in favor of Applicant.

The government has established its case under Guideline F. Applicant was living beyond his means for a lengthy period but it was not cause for concern because he was earning sufficient overtime to enable him to make timely payments. His financial situation was comfortable until about 1988 when his employer abruptly curtailed overtime and his extra income decreased. Because he had previously overextended himself, Applicant was now unable to satisfy all his existing financial obligations and the debts continued to mount. In July 1995, he filed a joint voluntary petition under Chapter 7, and Applicant and his wife were eventually released from all dischargeable debts. However, because of marital discord and possible inattentiveness to his finances, for a period thereafter, he continued to experience financial difficulties. His residence and an automobile were repossessed. His former actions in failing to satisfy his outstanding financial obligations until discharged through bankruptcy, and his lingering financial problems, gives rise to Financial Considerations Disqualifying Condition (FC DC) E2.A6.1.2.1. (*history of not meeting financial obligations*); and DC E2.A6.1.2.3. (*inability or unwillingness to satisfy debts*).

Applicant's former financial situation and difficulties also bring this matter within Financial Considerations Mitigating Condition (FC MC) E2.A6.1.3.3. (*the conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment, a business downturn, unexpected medical emergency, or a death, divorce or separation)*). Moreover, Applicant's previous efforts to resolve all past outstanding financial obligations, as well as current obligations, by seeking guidance from CCC, as well as his eventual resolution of all outstanding financial obligations and altered spending habits, bring this matter within FC MC E2.A6.1.3.4. (*the person has received or is receiving counseling for the problem and there are clear indications that the problem is being resolved or is under control*), and FC MC E2.A6.1.3.6. (*the individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts*).

Furthermore, the debts and bankruptcy alleged in the SOR occurred in 1995 (the bankruptcy), 1999 (the automobile repossession), and 2000 (the mortgage foreclosure). Lack of recency would seem to bring the matter within FC MC E2.A6.1.3.1. (*the behavior was not recent*). Under these circumstances, Applicant has, through evidence of extenuation and explanation, successfully mitigated or overcome the government's case. Accordingly, allegations 3.a. through 3.c. of the SOR are concluded in favor of Applicant.

For the reasons stated, I conclude Applicant is eligible for access to classified information.

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: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Subparagraph 1.b.: For the Applicant

Subparagraph 1.c.: For the Applicant

Subparagraph 1.d.: For the Applicant

Paragraph 2. Guideline E: FOR THE APPLICANT

Subparagraph 2.a.: For the Applicant

Paragraph 3. Guideline F: FOR THE APPLICANT

Subparagraph 3.a.: For the Applicant

Subparagraph 3.b.: For the Applicant

Subparagraph 3.c.: For the Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Robert Robinson Gales

Chief Administrative Judge

1. Government Exhibit 1 (Security Clearance Application, dated November 13, 1999), at 7-8.
2. *Id.*, at 3.
3. Government Exhibit 2 (Statement of Subject, dated March 23, 2000), at 7.
4. Joint Exhibit I (Statement of ex-wife, dated November 20, 2003); Tr., at 120.
5. Government Exhibit 3 (Arrest/Notice to Appear Probable Cause Affidavit, dated June 25, 1997).
6. Government Exhibit 5 (Supplement to Petition for Injunction-Domestic Violence, dated June 26, 1997).
7. Government Exhibit 4 (County Court Notice of No Information, dated August 7, 1997).

8. Tr., at 103.
9. Government Exhibit 2, *supra* note 3, at 3.
10. Tr., at 104.
11. Government Exhibit 2, *supra* note 3, at 3.
12. Tr., at 104.
13. Tr., at 51.
14. Amended Response to SOR, dated December 5, 2003, at 1.
15. Tr., at 51, 103, 106; Government Exhibit 2, *supra* note 3, at 3.
16. Government Exhibit 5, *supra* note 6.
17. *Id.*
18. Amended Response to SOR, *supra* note 14, at 1.
19. *Id.*
20. Government Exhibit 2, *supra* note 3, at 4.
21. *Id.*
22. Government Exhibit 6 (Police and Court Records-Arrest/Notice to Appear Probable Cause Affidavit, dated August 26, 1997), at 2.
23. *Id.*
24. *Id.*, (Police and Court Records-Arrest/Notice to Appear Probable Cause Affidavit, dated November 3, 1997), at 1.
25. *Id.*, (Police and Court Records-Notice Court Minutes, dated March 18, 1998), at 1.
26. *Id.*, at 2.
27. *Id.*, (Police and Court Records-Termination Form, dated September 16, 1998).
28. Tr., at 53.
29. Tr., at 53.
30. Government Exhibit 2, *supra* note 3, at 2.
31. *Id.*
32. Tr., at 102.
33. Tr., at 103; Government Exhibit 2, *supra* note 3, at 2.
34. Government Exhibit 1, *supra* note 1, at 3.
35. Government Exhibit 7 (Arrest/Notice to Appear Probable Cause Affidavit, dated January 4, 1998).

36. *Id.*

37. Government Exhibit 2, *supra* note 3, at 4.

38. Amended Response to SOR, *supra* note 14, at 1-2.

39. Joint Exhibit I, *supra* note 4.

40. Tr., at 121.

41. Joint Exhibit I, *supra* note 4.

42. Tr., at 60.

43. Tr., at 59.

44. Tr., at 59, 62, 70.

45. Joint Exhibit I, *supra* note 4.

46. *Id.*

47. Government Exhibit 2, *supra* note 3, at 5.

48. Government Exhibit 11 (Voluntary Petition, dated July 19, 1995).

49. *Id.*, (Summary of Schedules) at 3.

50. *Id.*, (Discharge of Joint Debtors) at 5.

51. Government Exhibit 8 (Mortgage Foreclosure Complaint, filed September 17, 1999), at 2.

52. *Id.*, (Final Summary Judgment of Mortgage Foreclosure, filed January 19, 2000).

53. *Id.*, (Loan Modification Agreement, dated March 2, 2000).

54. Government Exhibit 2, *supra* note 3, at 6.

55. Tr., at 64, 86.

56. Government Exhibit 9 (Retail Instalment Sale Contract, dated January 12, 1999).

57. *Id.*, at 1.

58. Government Exhibit 2, *supra* note 3, at 6.

59. *Id.*

60. *Id.*

61. Tr., at 84.

62. Tr., at 84.

63. Tr., at 64.

64. Applicant Exhibit B (Resume, undated).

65. Tr., at 113.

66. Tr., at 125.

67. Exec. Or. 12968, "*Access to Classified Information*;" as implemented by Department of Defense Regulation 5200.2-R, "*Personnel Security Program*," dated January 1987, as amended by Change 3, dated November 8, 1995, and further modified by memorandum, dated November 10, 1998. However, the Directive, as amended by Change 4, dated April 20, 1999, uses both "clearly consistent with the national interest" (Sec. 2.3.; Sec.2.5.3.; Sec. 3.2.; and Sec. 4.2.; Enclosure 3, Sec. E3.1.1.; Sec. E3.1.2.; Sec. E3.1.25.; Sec. E3.1.26.; and Sec. E3.1.27.), and "clearly consistent with the interests of national security" (Enclosure 2, Sec. E2.2.3.); and "clearly consistent with national security" (Enclosure 2, Sec. E2.2.2.)