

KEYWORD: Financial; Criminal Conduct; Drugs; Personal Conduct

DIGEST: Applicant is a mature individual with a long record of excellent service working for the military and defense contractors. During a period of marital discord, he accumulated significant delinquent debts which he is unwilling and unable to pay. Applicant has a lengthy criminal record related to domestic violence and drug abuse, including nine arrests, multiple convictions, and a probation violation resulting in seven months confinement. He used marijuana from about 1978 to about 2003, and cultivated marijuana for several years. He later falsified his responses to security clearance application questions concerning his criminal history, drug abuse, and financial problems. Applicant failed to mitigate the security concerns arising from his financial difficulties, criminal conduct, drug involvement, or personal conduct. Clearance is denied.

CASENO: 05-20514.h1

DATE: 03/30/2006

DATE: March 30, 2006

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In re:

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SSN: -----

Applicant for Security Clearance

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ISCR Case No. 05-02514

**DECISION OF ADMINISTRATIVE JUDGE**

**MICHAEL J. BRESLIN**

**APPEARANCES**

## **FOR GOVERNMENT**

Sabrina E. Redd, Esq., Department Counsel

## **FOR APPLICANT**

*Pro Se*

## **SYNOPSIS**

Applicant is a mature individual with a long record of excellent service working for the military and defense contractors. During a period of marital discord, he accumulated significant delinquent debts which he is unwilling and unable to pay. Applicant has a lengthy criminal record related to domestic violence and drug abuse, including nine arrests, multiple convictions, and a probation violation resulting in seven months confinement. He used marijuana from about 1978 to about 2003, and cultivated marijuana for several years. He later falsified his responses to security clearance application questions concerning his criminal history, drug abuse, and financial problems. Applicant failed to mitigate the security concerns arising from his financial difficulties, criminal conduct, drug involvement, or personal conduct. Clearance is denied.

## **STATEMENT OF THE CASE**

On August 18, 2003, Applicant submitted a security clearance application. The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant under Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (the "Directive"). On September 30, 2005, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision. The SOR alleges security concerns raised under the Directive, Guideline F, Financial Considerations.

Applicant answered the SOR in writing by letter dated October 18, 2005. He elected to have a hearing before an administrative judge.

I received the case assignment on November 10, 2005. With the concurrence of Applicant and Department Counsel, I convened the hearing on December 20, 2005. The government introduced Exhibits 1 through 31. Applicant provided Exhibits A through G, and testified on his own behalf. DOHA received the final transcript of the hearing (Tr.) on

January 9, 2006.

### FINDINGS OF FACT

Applicant admitted the factual allegations in the SOR. (Applicant's Answer to SOR, October 18, 2005.) Those admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, I make the following additional findings of fact.

Applicant was born in July 1960. (Ex. 1 at 1.) He had difficulties in high school because of a learning disability that affected his ability to read and spell. (Tr. at 24-26.) Through a special one-year state-funded program, he received on-the-job training maintaining military aircraft. (Tr. at 25.) Also, while in high school Applicant began smoking marijuana occasionally. (Tr. at 37.) He obtained a high school equivalency diploma (GED). (Tr. at 27.)

In 1978, the military hired Applicant to maintain aircraft. He worked as a fiberglass technician and sheet metal mechanic on a military installation. (Ex. 1 at 2; Tr. at 27.) He obtained a security clearance in June 1978. (Ex. 1 at 7; Tr. at 63.)

Applicant was married in 1978. (Ex. 1 at 3.) He has one child with his first wife. (Tr. at 31.)

By July 1991, Applicant and his wife were estranged, pending divorce. (Tr. at 34.) On July 24, 1991, Applicant met his wife, daughter, and others at a nearby river to relax and socialize. (Tr. at 32.) Applicant consumed about one-half of a bottle of whiskey. (Tr. at 33.) According to Applicant, a conversation with his wife turned into a heated argument. When she raised her finger to his face, he grabbed it and twisted it. A young man struck Applicant in the head with a tire tool; Applicant chased him with a small buck knife, attempting to cut him. (*Id.*) His sister-in-law threw Applicant's car keys into the water and Applicant slammed her in the car door. (Tr. at 34.) Applicant took his wife's car without her permission and attempted to drive home, but drove the car into a ditch. (Tr. at 34.) He got car keys from his house and started back to retrieve his vehicle when the local police arrested him.

In July 1991, authorities charged Applicant with Battery, Driving Under the Influence of Alcohol (DUI), Vehicle Theft (a felony), Aggravated Battery (a felony), and Petit Theft. (Answer to SOR, *supra*, at 1; Ex. 15.) He pled *nolo contendere* to Battery, and was sentenced to 12 months probation and a \$150.00 fine. (Ex. 26 at 2.) He was found guilty of DUI and placed on one year probation. (Ex. 30 at 1.) He pled *nolo contendere* to Petit Theft, and was sentenced to 30

months probation. (Ex. 26 at 2.) Applicant also pled *nolo contendere* to Aggravated Assault with a Weapon; the court accepted the plea but withheld adjudication of guilt and ordered Applicant to perform 50 hours of community service, to serve 30 months probation, and to pay \$300.00 in court costs. (Ex. 25 at 2.)

By 1994, Applicant was involved in a relationship with a girlfriend who would become his second wife. (Ex. 30 at 1.) On June 27, 1994, Applicant and his girlfriend were involved in a dispute. She notified the local police that he struck her in the eye and on the arm. (Ex. 22.) Authorities charged Applicant with Battery, but dropped the charge when they could not locate the witness for trial. (Exs. 23, 24.)

Applicant's girlfriend returned to her parents' home. In July 1994, Applicant went to the home and entered to deliver some mail. (Tr. at 47.) Her father called the police, who arrested Applicant and charged him with Burglary (a felony) and Battery-Domestic Violence. (Answer to SOR, *supra* at 1; Ex. 30 at 1.) Applicant pled *nolo contendere* to the lesser-included offense of Trespassing in an Occupied Structure. (Ex. 27 at 2.) The court sentenced him to time served.

Applicant cultivated marijuana in his backyard for several years. (Tr. at 41.) He asserts it was for his own consumption. (Tr. at 42; Ex. 30 at 2.) In 1996, a police helicopter flew over his land and spotted ten marijuana plants. (Tr. at 41.) Authorities arrested Applicant in October 1996, and charged him with Producing Marijuana, a felony, and Possession of Marijuana, a misdemeanor. (Ex. 18 at 1.) Applicant pled *nolo contendere* to Possession of Marijuana. (Ex. 5 at 12.) On December 30, 1996, the court sentenced him to 18 months probation for Producing Marijuana, and 12 months probation for Possessing Marijuana, to run concurrently. (Ex. 28 at 2.)

Applicant was married for the second time in February 1996. (Ex. 1 at 3.) He has three children with his present wife. (Tr. at 31.)

On May 5, 1997, the county police found marijuana in Applicant's vehicle. (Ex. 17 at 1.) State authorities charged him with two counts of violation of probation by possessing marijuana with intent to distribute and possessing marijuana. (Ex. 17 at 1.) The state revoked Applicant's probation, and he served seven months confinement in the county jail. (Ex. 28 at 3; Ex. 30 at 2.) Applicant appealed, but the judgment was affirmed. (Ex. 28 at 3-4.)

On May 16, 1997, the county police arrested Applicant for Battery of his wife. (Ex. 16; Ex. 30 at 2.) The charges were later dismissed. (Answer to SOR, *supra*; Ex. 5 at 14.)

Applicant worked for the military until 1999, when the facility closed. (Ex. 1 at 2; Tr. at 27.) Between June 1999 and August 2003, Applicant worked as a sheet-metal mechanic or sheet-metal supervisor for two private businesses in the

aircraft industry. (Ex. 1 at 2.)

In September 2000, Applicant's wife called the police and reported Applicant was in possession of marijuana and drug abuse paraphernalia. (Ex. 12.) A patrolman went to Applicant's home and found in his dresser drawer marijuana seeds and stems, cigarette rolling papers, a "roach" clip, two small pipes with marijuana residue, and a small scale. (Ex. 12 at 2.) Applicant denied the allegations. (Tr. at 43, 46.) The state charged Applicant with possession of marijuana and drug abuse paraphernalia. (Ex. 13.) Applicant's wife later changed her story and provided a sworn statement that the drugs were left in the house after a party, she put them in her husband's drawer, and she made the allegations to get her husband in trouble because they were going through a divorce. (Ex. 14 at 1-2.) Because Applicant's wife changed her story, and because Applicant was not living in the home at the time of the incident, the state dropped the charges. (Ex. 14 at 2; Ex. 5 at 15.)

On May 28, 2002, Applicant sent his wife a letter, in violation of an injunction from the county court prohibiting Applicant from contacting his wife. (Ex. 20.) On May 30, 2002, the county sheriff arrested Applicant for violating an injunction against repeated domestic violence. (Ex. 5 at 16; Ex. 19.) The state later dropped the charge because Applicant's wife refused to cooperate with authorities. (Ex. 5 at 16; Ex. 21.)

On January 23, 2003, Applicant and his wife got into an argument that escalated into a physical confrontation. (Ex. 6 at 2.) Applicant wrestled the telephone from his wife and threw it through the front window of the home. Applicant's wife alleged he struck one of their children with the telephone and assaulted her. (*Id.*) Authorities charged Applicant with Battery (Ex. 7), but later dropped the charges when Applicant's wife declined to pursue the case. (Ex. 8.) A court issued an injunction barring Applicant from contacting his wife. (Ex. 9 at 3.)

On January 30, 2003, Applicant called his wife on the telephone in violation of the injunction. (Ex. 9 at 1.) She refused to talk to him. Shortly thereafter, Applicant's daughter called his wife several times at Applicant's request. Applicant's wife reported the matter and authorities charged Applicant with two counts of violation of an Injunction for Protection Against Domestic Violence. (Ex. 10.) The state later dropped the charges at the request of Applicant's wife. (Ex. 11.)

After all the domestic strife, Applicant anticipated divorcing his wife. (Tr. at 54.) Having experienced divorce before, Applicant resolved he would not give his wife anything. (*Id.*) He quit his job and returned a motorcycle, a pick-up truck, and an automobile to the respective lenders as voluntary repossessions. (Tr. at 55.) The dealers re-sold the vehicles, eliminating most-but not all-the debts. (Tr. at 55; SOR, ¶¶ 1.a, 1.e, and 1.f.) During this time, Applicant, his wife, and their children incurred medical expenses which were not paid. (Tr. at 73-75.)

In August 2003, Applicant began working as a sheet-metal mechanic for his current employer, a defense contractor. (Ex. 1 at 1.) He claimed he stopped using marijuana before he started working in his present position. (Ex. 30 at 2; Tr. at 39.) He is subject to random drug testing in his current position, and has not had a problem. (Tr. at 40.)

On August 18, 2003, he completed an SF 86, Security Clearance Application. (Ex. 1 at 1.) According to Applicant, he was unable to complete the form himself because of his difficulty reading and writing. He had his wife assist him in completing the form and he turned it in to his company without reviewing it. (Ex. 30 at 1; Tr. at 38-39, 61-62, 64-67, 77.) The company prepared a typed version of the application; Applicant asserted he signed it without reading it. (Ex. 1 at 8; Tr. at 77.)

The SF 86 Applicant submitted included inaccurate information about his criminal record. Specifically, the Applicant denied: ever being charged with or convicted of a felony offense (Question 21); ever being charged with or convicted of any offense related to alcohol or drugs (Question 24); being arrested or charged with any offense within the previous seven years (Question 26); using an illegal drug within the preceding seven years (Question 27); manufacturing or producing cannabis (marijuana) within the preceding seven years (Question 29); having property repossessed within the preceding seven years (Question 35); being more than 180 days delinquent on any debt within the preceding seven years (Question 38); and currently being over 90 days delinquent on any debts (Question 39).

On September 17, 2003, security investigators obtained Applicant's credit bureau report. (Ex. 4.) The report reflected eleven delinquent accounts and one vehicle repossession. (*Id.*)

On February 19, 2004, a security investigator interviewed Applicant. (Ex. 30 at 3.) Because of his difficulty with reading and writing, Applicant was unable to write a statement himself; he had the agent write out the statement and he signed it. (Tr. at 37-38; Ex. 30 at 2.)

Applicant continues to work for the defense contractor. (Tr. at 21, 29.) He received several citations from his employer for exceptional service. (Exs. E, F, and G.) He moved up to be the supervisor of the night shift. (Tr. at 21.) His supervisors praise his dependability, dedication and duty performance. (Exs. A, B, C, and D.)

Applicant is still married to his second wife in order to avoid the expense of a divorce and to assure his continued contact with his children, now 12, 10, and 9 years old. (Tr. at 31, 45, 52.) They have not obtained marital counseling. Applicant avoids problems with his wife because he works at night and his wife works during the day. (Tr. at 53.) Applicant may consider divorce when his youngest child reaches age 13 and becomes eligible under state law to express a preference for custodial parent. (Tr. at 52.)

Applicant admits he is not in a position to pay off the debts listed in the SOR, ¶¶ 1.a (\$8,399.00), 1.e (\$2,277.00) and 1.f (\$20,000.00) due after returning his three vehicles. (Tr. at 55, 57, 60.) He disputes the \$462.00 debt for telephone services listed in ¶ 1.b of the SOR as his wife's separate obligation. (Tr. at 56.) Applicant contacted the creditor about the numerous, small medical bills listed in the SOR at ¶¶ 1.c and 1.d, but has not arranged a repayment plan. (Tr. at 59-60.)

Applicant recently received a bonus check in the amount of \$1,300.00. (Tr. at 58.) He used the funds to purchase a dune buggy for his children and a motorcycle for his son. (Tr. at 58.)

## POLICIES

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 that person access to such information." (*Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988).) In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information within the executive branch.

To be eligible for a security clearance, an applicant must meet the security guidelines contained in the Directive. Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions and mitigating conditions under each guideline. The adjudicative guidelines at issue in this case are:

Guideline F, Financial Considerations: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. (Directive ¶ E2.A6.1.1.)

Guideline J, Criminal Conduct: A history or pattern of criminal activity creates doubt about an applicant's judgment, reliability, and trustworthiness. (Directive, ¶ E2.A10.1.1.)

Guideline H, Drug Involvement: Improper or illegal involvement with drugs, raises questions regarding an individual's willingness or ability to protect classified information. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information. (Directive ¶ E2.A8.1.1.1.)

Guideline E, Personal Conduct: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the applicant may not properly safeguard classified information. (Directive, ¶ E2.A5.1.1.)

Conditions that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns pertaining to these adjudicative guidelines, are set forth and discussed in the conclusions below.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance." (Directive, ¶ E2.2.1.) An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. (*Id.*) An administrative judge should consider the following factors: (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. (*Id.*)

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the applicant from being eligible for access to classified information. (Directive, ¶ E3.1.14.) Thereafter, the applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate the facts. (Directive, ¶ E3.1.15.) An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." (ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).) "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." (Directive, ¶ E2.2.2.)

A person granted access to classified information enters into a special relationship with the government. 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. The decision to deny an individual a security clearance is not a determination as to the loyalty of the applicant. (Exec. Ord. 10865, § 7.) It is merely an indication that the applicant has not met the strict guidelines the President has established for issuing a clearance.

## CONCLUSIONS

I considered carefully all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

### **Guideline F, Financial Considerations**



Paragraph E2.A6.1.2.1 of the Directive provides that it may be disqualifying if the evidence reveals "[a] history of not meeting financial obligations." Similarly, ¶ E2.A6.1.2.3 indicates that an "[i]nability or unwillingness to satisfy debts" may be disqualifying. Applicant accumulated several substantial delinquent debts between about 2000 and 2003, and many remained unpaid for years. He is unwilling to pay his debts, given that he uses additional income to buy expensive gifts for his children. He is also unable to pay his debts, either outright, through a settlement, or pursuant to a repayment plan. I find the available evidence raises both these potentially disqualifying conditions.

The Directive provides that security concerns arising from financial difficulties can be mitigated. Under the Directive, ¶ E2.A6.1.3.1, it may be mitigating where "the behavior was not recent." Applicant's delinquent debts arose between about 2000 and 2003, and many remain unresolved. I find the unpaid obligations are recent and this potentially mitigating condition does not apply.

Paragraph E2.A6.1.3.2 of the Directive provides that it may be mitigating where the financial difficulty "was an isolated incident." Applicant's numerous delinquent debts arose over many years because of a variety of reasons. I conclude this mitigating condition does not apply.

Under ¶ E2.A6.1.3.3, it may be mitigating where, "[t]he 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)." Applicant's delinquent debts arose from circumstances which were not beyond his control, such as quitting his job and returning his vehicles in order to deny any financial benefit to his wife in the event of a divorce. I conclude this potentially mitigating condition does not apply.

Proof that "[t]he 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," may be mitigating, under ¶ E2.A6.1.3.4 of the Directive. Similarly, it may be mitigating where "[t]he individual initiated a good-faith effort to repay overdue creditors or otherwise resolve debts." (Directive, ¶ E2.A6.1.3.6.) Applicant has made no effort to pay or settle his delinquent debts. I conclude these potentially mitigating conditions do not apply.

I considered the potentially disqualifying and mitigating circumstances in light of the "whole person" concept. Applicant has a long record of excellent service to the military and defense contractors. His supervisor's praise his skill and dedication. At the same time, he demonstrated an unreasonable lack of financial responsibility by breaching his loan agreements and incurring substantial debt to frustrate his wife in a potential divorce. Rather than resolving his debts, Applicant spends his additional funds on lavish gifts for his children. I conclude Applicant has not mitigated the security concerns arising from his financial difficulties.

## **Guideline J, Criminal Conduct**

Paragraph E2.A10.1.2.1 of the Directive provides that "allegations or admission of criminal conduct" may be disqualifying. Similarly, under ¶ E2.A10.1.2.2 of the Directive, it may be disqualifying where an applicant committed "a single serious crime or multiple lesser offenses." Applicant's record includes nine arrests, including three incidents involving felony offenses. He was convicted of DUI and vehicle theft in 1991, trespassing in 1994, and possession of marijuana in 1996. He then violated his probation and served seven months confinement. I find both these potentially disqualifying conditions are raised in this case.

Under the Directive, the security concerns arising from a history of criminal conduct may be mitigated. Under ¶ E2.A10.1.3.1 of the Directive, it may be mitigating when "the criminal behavior was not recent." The Directive does not define the term "recent"; the recency of an incident is determined by considering all the circumstances, including the applicant's age, his pattern of behavior over a period of time, and the number of years since the last incident relative to the entire course of conduct. Applicant's history of criminal involvement in offenses related to drug abuse and domestic violence extends from 1991 through 2003, a period of about 12 years. By contrast, he had no arrests or criminal conduct for about three years. Considering all the circumstances, I conclude Applicant's criminal conduct is recent, and this potentially mitigating condition does not apply.

The Directive, ¶ E2.A10.1.3.2, also provides that it may be mitigating where "the crime was an isolated incident." As noted above, Applicant has a long history of crimes related to drug abuse and domestic violence. His crimes are not isolated incidents; therefore, this potentially mitigating condition does not apply.

Paragraph E2.A10.1.3.4 of the Directive states it may be mitigating where "the factors leading to the violation are not likely to recur." Similarly, under ¶ E2.A10.1.3.6 of the Directive, it may be mitigating where "there is clear evidence of successful rehabilitation." Applicant's repeated arguments with his wife gave rise to the offenses related to domestic violence. He has not sought or obtained marital counseling and contemplates divorce when his children are older. I find the factors leading to Applicant's domestic violence offenses are likely to recur. I conclude these potentially mitigating conditions do not apply.

I carefully considered the disqualifying and mitigating conditions in this case, in light of the "whole person" concept. I conclude Applicant has not mitigated the security concerns arising from his history of criminal conduct.

## **Guideline H, Drug Involvement**

Under the Directive, ¶ E2.A8.1.2.1, any drug abuse could raise a security concern. The Directive defines "drug abuse" as "the illegal use of a drug or the use of a legal drug in a manner that deviates from approved medical direction." (Directive, ¶ E2.A8.1.1.3.) The evidence shows Applicant wrongfully consumed marijuana on multiple occasions

between about 1978 and 2003. This potentially disqualifying condition applies.

Paragraph E2.A8.1.2.2 of the Directive provides that "illegal drug possession, including cultivation" may be disqualifying. Applicant illegally possessed marijuana on numerous occasions incident to his repeated use of the drug, and cultivated marijuana on his property for several years. (Ex. 3 at 1-2.) I find this potentially disqualifying condition applies.

It is possible to mitigate the security concerns that arise from drug involvement. Under the Directive, ¶ E2.A8.1.3.1, it may be mitigating where, "[t]he drug involvement was not recent." The Directive does not define the term "recent." As discussed above, the determination of recency depends upon all the relevant circumstances of each case. In this case, Applicant used and possessed marijuana from about age 18 until age 43 (between 1978 and 2003). Applicant smoked marijuana while working for the U.S. military, but discontinued his use of marijuana before accepting his position with his current employer about three years ago. Three years of abstinence is relatively short compared to a history of about 25 years of drug abuse. I conclude Applicant's drug involvement was recent, therefore this mitigating condition does not apply.

Paragraph E2.A8.1.3.2 indicates that it may be mitigating where the drug involvement "was an isolated or aberrational event." The available evidence shows Applicant abused drugs on numerous occasions spanning many years, therefore I find this potentially mitigating condition does not apply.

"A demonstrated intent not to abuse drugs in the future" may also be mitigating. (Directive, ¶ E2.A8.1.3.3.) The evidence indicates Applicant used marijuana for many years, but has not used it in the last three years. At the hearing, he testified credibly that he has changed his lifestyle and does not intend to use illegal drugs in the future. Although Applicant seems sincere in his desire to refrain from illegal drug abuse, his history of marijuana offenses-even while on probation-and his pattern of irresponsible behavior leaves me unconvinced of his ability to meet that goal. Weighing all the evidence, I find this potentially mitigating condition does not apply.

Finally, the Directive, ¶ E2.A8.1.3.4, provides that it may be mitigating where the evidence demonstrated "[s]atisfactory completion of a prescribed drug treatment program, including rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a credentialed medical professional." Applicant furnished no information indicating he ever completed a drug treatment program. I conclude this mitigating condition does not apply.

I balanced the potentially disqualifying and mitigating conditions in light of the "whole person" concept. Applicant is 45 years old and has worked for the military or defense contractors for most of his adult life. He has a long history of drug abuse, which raises substantial security concerns. He continued to use marijuana even after his drug involvement resulted in a criminal conviction and jail time. To his credit, he has remained drug-free for three years; however, it is too soon for me to be convinced that his history of drug abuse is no longer a security concern. I conclude Applicant has not

mitigated the security concerns arising from his drug involvement.

## **Guideline E, Personal Conduct**

The Directive sets out various factors relevant to an applicant's personal conduct that may be potentially disqualifying. Under ¶ E2.A5.1.2.2 of the Directive, "[t]he deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire" may be disqualifying. Considering all the available information, it is clear that Applicant's answers to Questions 21, 24, 26, 27, 29, 35, 38, and 39 on the Security Clearance Application were not accurate. The only issue is whether Applicant provided the inaccurate information inadvertently or deliberately, with an intent to mislead the government.

After working for the military and defense contractors for most of his adult life, Applicant knew the significance of a security clearance. He also knew that his lengthy record of criminal involvement and drug abuse was potentially disqualifying. During questioning by Department Counsel, Applicant admitted going over questions with his wife and providing her information to complete the form. Given his wife's involvement with his numerous arrests and convictions, it is simply not credible that she provided false answers without raising the matters with Applicant, or that they both misunderstood the plain language of the questions. Thus, Applicant's contention that he did not consider the relevant questions carefully is not credible. Finally, Applicant admitted not reporting financial delinquencies and repossessions because he was planning to pay off the debts. I conclude Applicant deliberately provided false information in response to these questions, and this potentially disqualifying condition applies.

Under the Directive, an applicant may mitigate the security concerns arising from questionable personal conduct. (Directive, ¶ E2.A5.1.3.) Under ¶ E2.A5.1.3.1, it may be mitigating where "[t]he information was unsubstantiated or not pertinent to a determination of judgment, trustworthiness, or reliability." The incidents about which Applicant was untruthful are substantiated by documentary evidence and his later admissions. His record of criminal conduct and financial difficulties reflects on his character and stability, and is pertinent to a determination of his judgment and reliability. I find this mitigating factor does not apply.

The potentially mitigating condition in ¶ E2.A5.1.3.2 of the Directive arises where "the falsification was an isolated incident, was not recent, and the individual subsequently provided correct information voluntarily." Applicant's falsifications were not isolated incidents, they were recent, and Applicant did not provide correct information until confronted by investigators. I conclude this potentially mitigating condition does not apply. I also considered carefully the other potentially mitigating conditions and conclude they do not apply.

I considered carefully all the facts and circumstances in this case in light of the "whole person" concept. I conclude Applicant has not mitigated the security concerns arising from his falsification of his security clearance application.

**FORMAL FINDINGS**

My conclusions as to each allegation in the SOR are:

Paragraph 1, Guideline F: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraph 1.b: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against Applicant

Subparagraph 1.e: Against Applicant

Subparagraph 1.f: Against Applicant

Paragraph 2, Guideline J: AGAINST APPLICANT

Subparagraph 2.a: Against Applicant

Subparagraph 2.b: Against Applicant

Subparagraph 2.c: Against Applicant

Subparagraph 2.d: Against Applicant

Subparagraph 2.e: Against Applicant

Subparagraph 2.f: Against Applicant

Subparagraph 2.g: Against Applicant

Subparagraph 2.h: Against Applicant

Subparagraph 2.i: Against Applicant

Paragraph 3, Guideline H: AGAINST APPLICANT

Subparagraph 3.a: Against Applicant

Subparagraph 3.b: Against Applicant

Subparagraph 3.c: Against Applicant

Paragraph 4, Guideline E: AGAINST APPLICANT

Subparagraph 4.a: Against Applicant

Subparagraph 4.b: Against Applicant

Subparagraph 4.c: Against Applicant

Subparagraph 4.d: Against Applicant

Subparagraph 4.e: Against Applicant

Subparagraph 4.f: Against Applicant

Subparagraph 4.g: Against Applicant

Subparagraph 4.h: Against Applicant

**DECISION**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Michael J. Breslin  
Administrative Judge