



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 07-14696
SSN: -----	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric H. Borgstrom, Department Counsel  
For Applicant: *Pro Se*

April 14, 2009

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**Decision**

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LOKEY ANDERSON, Darlene D., Administrative Judge:

Applicant submitted his Electronic Questionnaire for Investigations Processing (e-QIP) on May 25, 2007. On October 16, 2008, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 (as amended), and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to the Applicant, which detailed the 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 the Applicant and recommended referral to an Administrative Judge to determine whether a clearance should be denied or revoked.

The Applicant responded to the SOR in writing on November 5, 2008, in which he elected to have the case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's File of Relevant Material (FORM) to the Applicant on January 8, 2009. The Applicant was instructed to submit information in rebuttal, extenuation or mitigation within 30 days of receipt. Applicant received the

FORM on January 12, 2009, and he submitted no reply. The case was assigned to the undersigned for resolution on March 24, 2009.

### **FINDINGS OF FACT**

The Applicant is 45 years old and married with two adult children. He is employed by a defense contractor as a Technician D, and is applying for a security clearance in connection with his employment.

The Government opposes the Applicant's request for a security clearance, on the basis of allegations set forth in the Statement of Reasons (SOR). The following findings of fact are entered as to each paragraph and guideline in the SOR:

Paragraph 1 (Guideline I - Psychological Conditions). The Government alleges in this paragraph that the Applicant is ineligible for clearance because his emotional, mental and personality conditions can impair his judgment, reliability or trustworthiness and his ability to properly protect classified information.

The Applicant admits each of the allegations set forth in the SOR under this guideline. Applicant served in the United States Navy from May 1983 until September 1989. From December 1986 until February 1987, Applicant attended training in Air Traffic Control Radar Maintenance, and received a certification of completion. Since February 1993, he has been employed by a defense contractor. Applicant was granted a Secret security clearance by the Department of Defense in December 1999, however this clearance was suspended in January 2007 due to the mental health condition described below.

On January 14, 2007, the Applicant's wife called the police because her husband who was threatening to harm himself and who exhibited an altered state of mind. The Applicant was at home consuming a couple of alcoholic drinks, when he went to the bathroom and learned that his wife had taken the prescription drug Ambien with her to their daughter's house in Syracuse, where she was visiting at the time. Hospital medical records indicate that the Applicant became upset with his wife for taking the Ambien, that he telephoned her and told her that he just "bled to death". His wife had taken the Ambien with her due to her fear that the Applicant would overdose on the drug.

The Applicant was taken to the a Hospital Emergency Room in the custody of the local police department. Applicant was admitted for a physical and psychiatric evaluation, and initially refused a CT scan ordered by a physician in the Emergency Room. (Government Exhibit 5).

The Psychiatric Discharge Summary from the hospital states that according to the Applicant's wife, since June 2006, the Applicant had been increasingly paranoid with the belief that people were following him in his town and that he was being investigated

by the Government. He referred to people in the community as puppets and started e-mailing his time sheets to himself out of paranoid belief that people at his job were trying to get rid of him. In addition, he believed people at his place of work and his neighbors were making an inordinate amount of noise. He was also afraid that people were trying to steal his identity. His wife stated that he had gone so far as to hit people in the market with his shopping cart out of the belief that they pose him some harm. Other paranoid beliefs of the Applicant are described in the medical records. (Government Exhibit 5).

The psychiatrist who conducted the mental health examination of the Applicant at the hospital concluded that the Applicant had experienced multiple delusions in his history and that he exhibited poor insight and judgment. Applicant was prescribed the psychiatric medication, Risperdal, to target Applicant's psychoses. The doctor diagnosed the Applicant with Delusional Disorder and Psychosis Not Otherwise Specified. Applicant was discharged from the hospital on January 16, 2007, with the recommendation that he take his prescribed medication on a daily basis and that he follow up with mental health counseling. (Government Exhibit 5). Shortly after being discharged, the Applicant dispensed with using his Risperdal. (Government Exhibit 4).

On September 23, 2008, Applicant received a psychological evaluation from a Clinical and Neuropsychologist. The Applicant was given the Minnesota Multiphasic Personality Inventory (MMPI) examination which demonstrated that the Applicant exhibited, "strong paranoia" with a score of 95. The psychologist noted that any score above 65 is considered in the "pathological range." The Applicant was diagnosed with suffering from DSM-IV-TR Axis II 301, "Paranoid Personality Disorder." This is a pervasive distrust and suspiciousness of others such that their motives are interpreted as malevolent, beginning by early adulthood and present in a variety of contexts. He further states that, "It is unfortunately of a continuing nature. It has been going on for a number of years. It seems to get worse and the client is clearly entrenched in his beliefs that he is a target in a conspiracy by his family, his friends, and his fellow employees. He also believes that the government is watching him and tracking his movements and they are out to destroy him". (Government Exhibit 4).

As to whether the Applicant's illness affects his work: The doctor noted that the Applicant's psychological condition is affecting him both at home and at work. "Applicant continued to suffer anxiety attacks, and he believed that his sister, wife and son are now all involved in the plots against him. It was also noted that the Applicant quickly dispensed of the psychiatric medication that was prescribed to him for daily use". (Government Exhibit 4).

As to whether the Applicant is in remission: The evaluation noted that the illness and paranoia are by no means in remission and are active and full-blown at the present time. "He is not taking any medication that is deconfusional and would be considered an anti-psychotic. He is not utilizing the mental health center as suggested when he was released from the hospital". (Government Exhibit 4).

## POLICIES

Security clearance decisions are not made in a vacuum. Accordingly, the Department of Defense, in Enclosure 2 of the 1992 Directive sets forth policy factors and conditions that could raise or mitigate a security concern; which must be given binding consideration in making security clearance determinations. These factors should be followed in every case according to the pertinent guidelines. However, the conditions are neither automatically determinative of the decision in any case, nor can they supersede the Administrative Judge's reliance on her own common sense. Because each security clearance case presents its own unique facts and circumstances, it cannot be assumed that these factors exhaust the realm of human experience, or apply equally in every case. Based on the Findings of Fact set forth above, the factors most applicable to the evaluation of this case are:

### Guideline I - (Psychological Conditions)

27. *The Concern.* Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline. No negative inference concerning the standards in this Guideline may be raised solely on the basis of seeking mental health counseling.

#### Conditions that could raise a security concern:

28(a) behavior that casts doubt on an individual's judgment, reliability, or trustworthiness that is not covered under any other guideline, including but not limited to emotionally unstable, irresponsible, dysfunctional violent, paranoid, or bizarre behavior.

28(b) an opinion by a duly qualified mental health professional that the individual has a condition not covered under any other guideline that may impair judgment, reliability, or trustworthiness;

28(c) the individual has failed to follow treatment advice related to a diagnosed emotional, mental, or personality condition, e.g. failure to take prescribed medication.

#### Conditions that could mitigate security concerns:

None.

In addition, as set forth in Enclosure 2 of the Directive at pages 16-17, in evaluating the relevance of an individual's conduct, the Administrative Judge should consider the following general factors:

- a. The nature and seriousness of the conduct and surrounding circumstances
- b. The circumstances surrounding the conduct, to include knowledgeable participation
- c. The frequency and recency of the conduct
- d. The individual's age and maturity at the time of the conduct
- e. The voluntariness of participation
- f. The presence or absence of rehabilitation and other pertinent behavior changes
- g. The motivation for the conduct
- h. The potential for pressure, coercion, exploitation or duress
- i. The likelihood of continuation or recurrence.

The eligibility criteria established in the DoD Directive identify personal characteristics and conduct which are reasonably related to the ultimate question, posed in Section 2 of Executive Order 10865, of whether it is "clearly consistent with the national interest" to grant an Applicant's request for access to classified information.

The DoD Directive states, "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. Eligibility for access to classified information is predicted upon the individual meeting these personnel security guidelines. The adjudicative process is the careful weighing of a number of variables known as the whole person concept. Available, reliable information about the person, past and present, favorable and unfavorable should be considered in reaching a determination. The Administrative Judge can draw only those inferences or conclusions that have reasonable and logical basis in the evidence of record. The Judge cannot draw inferences or conclusions based on evidence which is speculative or conjectural in nature. Finally, as emphasized by President Eisenhower in Executive Order 10865, "Any determination under this order . . . shall be a determination in terms of the national interest and shall in no sense be a determination as to the loyalty of the Applicant concerned."

The Government must make out a case under Guideline I (Psychological Conditions) that establishes doubt about a person's judgment, reliability and trustworthiness. While a rational connection, or nexus, must be shown between Applicant's adverse conduct and his ability to effectively safeguard classified information, with respect to sufficiency of proof of a rational connection, objective or direct evidence is not required.

Then, the Applicant must remove that doubt with substantial evidence in refutation, explanation, mitigation or extenuation, which demonstrates that the past adverse conduct, is unlikely to be repeated, and that the Applicant presently qualifies for a security clearance. The Government must be able to place a high degree of confidence in a security clearance holder to abide by all security rules and regulations, at all times and in all places.

## CONCLUSION

Having considered the evidence in light of the appropriate legal standards and factors, and having assessed the Applicant's credibility based on the record, this Administrative Judge concludes that the Government has established its case as to all allegations in the SOR, and that Applicant's questionable psychological conditions has a direct and negative impact on his suitability for access to classified information.

In 2007, the Applicant was diagnosed with Delusional Disorder and a Psychosis Not Otherwise Specified, and most recently in 2008, less than a year ago, with Paranoid Personality Disorder. Two competent mental health professionals have evaluated the Applicant's mental condition and have diagnosed a mental disorder. The question to be addressed now is whether the Applicant has emotional, mental or personality disorders which can cause a significant defect in the individual's psychological, social, and occupational functioning that may adversely affect the individual's ability to properly safeguard classified information. Clearly the Applicant's mental condition poses a security risk. A psychiatrist and psychologist indicate that the nature of the Applicant's illness is one that exhibits distorted judgment and an altered mental state. Applicant's illness and paranoia are not in remission, but are full blown. Furthermore, he is not taking any medication to help his mental state nor is he utilizing the recommended mental health counseling. The nature of the illness is continuing and there is no positive outlook at this time. Considering this evidence in totality, the Applicant's mental condition demonstrates an emotional, mental, and personality condition that can impair judgment, reliability and trustworthiness and can adversely affect his ability to protect classified information.

Under Guideline I, Psychological Conditions, Disqualifying Conditions 28(a) *behavior that casts doubt on an individual's judgment, reliability, or trustworthiness that is not covered under any other guideline, including but not limited to emotionally unstable, irresponsible, dysfunctional violent, paranoid, or bizarre behavior*, 28(b) *an opinion by a duly qualified mental health professional that the individual has a condition not covered under any other guideline that may impair judgment, reliability, or trustworthiness* and, 28(c) *the individual has failed to follow treatment advice related to a diagnosed emotional, mental, or personality condition, e.g. failure to take prescribed medication* apply. None of the mitigating conditions are applicable.

There has been no evidence presented in mitigation significant to override the Applicant's heavy burden in this case. Applicant has not met his burden of

demonstrating that his psychological condition does not raise a security concern, and Guideline I is found against the Applicant.

I have also considered the “whole person concept” in evaluating the Applicant’s eligibility for access to classified information. Under the particular facts of this case, the totality of the conduct set forth under all of the guidelines viewed as a whole, support a whole person assessment of poor judgement, untrustworthiness, unreliability, an unwillingness to comply with rules and regulations, and/or other characteristics indicating that the person may not properly safeguard classified information.

Considering all of the evidence presented, it does not come close to mitigating the negative effects of his psychological condition and the impact that it can have on his ability to safeguard classified information. On balance, it is concluded that the Applicant has failed to overcome the Government's case opposing his request for a security clearance. Accordingly, the evidence supports a finding against the Applicant as to the factual and conclusionary allegations expressed in Paragraph 1 of the SOR.

### **FORMAL FINDINGS**

Formal Findings For or Against the Applicant on the allegations in the SOR, as required by Paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1: Against the Applicant.  
Subparagraph 1.a.: Against the Applicant  
Subparagraph 1.b.: Against the Applicant

### **DECISION**

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

Darlene Lokey-Anderson  
Administrative Judge