



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



In the matter of:)
)
) ISCR Case No. 08-05864
)
)
Applicant for Security Clearance)

Appearances

For Government: James F. Duffy, Esquire, Department Counsel
For Applicant: *Pro Se*

July 29, 2009

Decision

CREAN, Thomas M., Administrative Judge:

Applicant submitted his Electronic Questionnaires for Investigations Processing (e-QIP), to receive a security clearance for his employment on February 16, 2007. The e-QIP was resubmitted and signed by Applicant on March 24, 2009 (Item 4). On April 22, 2009, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing security concerns under Guideline I for psychological conditions (Item 1). The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the revised Adjudicative Guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant answered the SOR in writing on May 6, 2009. He denied the SOR allegation under Guideline I, and elected to have the matter decided on the written record in lieu of a hearing (Item 3). Department Counsel submitted the Government's written case on June 2, 2009. Applicant received a complete file of relevant material (FORM), and was provided the opportunity to file objections and submit material to

refute, extenuate, or mitigate the security concerns. Applicant timely responded on June 29, 2009, providing additional information to refute, extenuate, and mitigate the security concerns under Guideline I. The case was assigned to me on July 15, 2009. Based upon a review of the case file and the pleadings, eligibility for access to classified information is denied.

Administrative Notice

I have taken administrative notice of the following information from the Diagnostic and Statistical Manual of Mental Health Disorders, DSM-IV-TR.

Schizotypal Personality Disorder is described as follows:

The essential feature of Schizotypal Personality Disorder is a pervasive pattern of social and interpersonal deficits marked by acute discomfort with, and reduced capacity for, close relationships as well as cognitive or perceptual distortions and eccentricities of behavior. The pattern begins by early adulthood and is present in a variety of contexts.

Individuals with Schizotypal Personality Disorders often have ideas of reference (*i.e.*, incorrect interpretations of casual incidents and external events as having a particular and unusual meaning specifically for the person. . .) These individuals may be superstitious or preoccupied with paranormal phenomena that are outside the norms of their subculture.

Individuals with this disorder are often suspicious and may have paranoid ideations. They are usually not able to negotiate the full range of affects and interpersonal cuing required for successful relationships and thus often appear to interact with others in an inappropriate, stiff, or constricted fashion. These individuals are often considered to be odd or eccentric because of unusual mannerisms, an often unkempt manner of dress that does not quite "fit together," and inattention to the usual social conventions (e.g., the person may avoid eye contact, wear clothes that are ink stained or ill-fitting, and unable to join in the give-and-take banter of co-workers.)

Individuals with Schizotypal Disorders experience interpersonal relatedness as problematic and are uncomfortable relating to other people.

The diagnostic criteria for Shizotypal Personality Disorder are:

A pervasive pattern of social and interpersonal deficits marked by acute discomfort with, and reduced capacity for, close relationships as well as by cognitive or perceptual distortions and eccentricities of behavior, beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:

- (1) ideas of reference (excluding delusions of reference)
- (2) odd beliefs or magical thinking that influences behavior and is inconsistent with sub cultural norms (e.g., superstitiousness, belief in clairvoyance, telepathy, or "sixth sense")
- (3) unusual perceptual experiences, including bodily illusions
- (4) odd thinking and speech
- (5) suspiciousness or paranoid ideation
- (6) inappropriate or constricted affect
- (7) behavior or appearance that is odd, eccentric, or peculiar
- (8) lack of close friends or confidants other than first-degree relatives
- (9) excessive social anxiety that does not diminish with familiarity and tends to be associated with paranoid fears rather than negative judgments about self (Paragraph 301.22, page 697).

Schizoid Personality Disorder is described as follows:

The essential feature of Schizoid Personality Disorder is a pervasive pattern of detachment from social relationships and a restricted range of expression of emotions in interpersonal settings. The pattern begins by early adulthood and is present in a variety of contexts.

Individuals with Schizoid Personality Disorders appear to lack a desire for intimacy, seem indifferent to opportunities to develop close relationships, and do not seem to derive much satisfaction from being part of family or other social group. They prefer spending time by themselves, rather than being with other people. They often appear to be socially isolated or "loners" and almost always choose solitary activities or hobbies that do not include interaction with others. They prefer mechanical or abstract tasks, such as computer or mathematical games.

Individuals with Schizoid Personality Disorder often seem indifferent to the approval or criticism of others and do not appear to be bothered by what others may think of them. They may be oblivious to the normal subtleties of social interaction and often do not respond appropriately to social cues so that they seem socially inept or superficial and self-absorbed.

Schizoid Personality Disorder may be first apparent in childhood and adolescence with solitariness, poor peer relationships, and under achievement in school, which mark these children or adolescents as different and make them subject to teasing.

The diagnostic criteria for Schizoid Personality Disorder are:

A pervasive pattern of detachment from social relationships and a restricted range of expression of emotions in interpersonal settings, beginning by early adulthood and present in a variety of contexts, as indicated by four (or more) of the following:

- (1) neither desires nor enjoys close relationships, including being part of a family
- (2) almost always chooses solitary activities
- (3) has little, if any, interest in having sexual experiences with another person
- (4) takes pleasure in few, if any, activities
- (5) lacks close friends or confidants other than first-degree relatives
- (6) appears indifferent to the praise or criticism of others
- (7) shows emotional coldness, detachment, or flattened affectivity (Paragraph 301.20, page 694).

Findings of Fact

Applicant denied the factual allegation under Guideline I. I thoroughly and carefully reviewed the case file and the pleadings. I make the following findings of fact.

Applicant is a 48-year-old single college graduate who has been employed as a computer engineer and programmer for a defense contractor since February 2007. Prior to this employment, he worked as a software engineer for a computer company for sixteen years (Item 4).

Applicant in his e-QIP (Item 4) responded to a question concerning consultation with a mental health professional, that he consulted with a psychiatrist from September 1998 until May 2003. Applicant provided a release for his medical records with his e-QIP. Security investigators discussed Applicant's mental health condition with the psychiatrist and obtained his clinical records.

Applicant was the psychiatrist's patient for over five years. The psychiatrist started seeing Applicant in September 1998 in the context of attention deficit disorder and related conditions. The psychiatrist noted in response to security investigator's questions that Applicant "Yes, absolutely yes" had a condition that could impair safeguarding of classified national security information. He further indicated the Applicant's prognosis for substantial improvement was very poor. The psychiatrist opined (Item 5):

[Applicant] is one of the most peculiar individuals I have come across in 30 year of practicing medicine. He possesses all sorts of warning indicators that he should not have a security clearance above or even at the level of the average citizen. A psychological professional who did psychometric testing on him about ten years ago, indicated to me that [Applicant] had some scaled scores at "psychotic levels." In addition, [Applicant] is obsessive-compulsive, forgetful, disorganized, prone to misplaced or losing materials, sleepy, tardy, messy, inattentive, procrastinative, and prone to outbursts of temper. In addition, when I saw him, he complained of having periods of hearing "dropout" which I cannot rule out as brief periods of psychosis. When I knew him, he had sleep apnea and was therefore significantly prone to sudden death.

[Applicant] has Schizotypal Personality Disorder and characteristics of Schizoid Personality Disorder. [Applicant] has lifelong odd beliefs and magical thinking which influence his behavior. He has bizarre fantasies and frequent quite peculiar preoccupations, some of which go on for years. The borderline of reality and abnormality, the borderline of this world and the "other world," is vague and indistinct to him. For example, [Applicant] believes in "ground devils" which are imaginary intelligent biped animals living underground, perhaps somewhat like trolls, which creatures he believes do attempt to contact human beings at times. He believes in Element 168 "a yet undiscovered heavy metallic inert gas." He is infatuated with the house on the TV show "Bewitched," the musical key of D minor, and the symbol in the hand of the jack of spades, Circle-K food stores, the number 26, Don Knotts, toilets, and the "blue tail fly."

If in government service, it would be very difficult to determine whether [Applicant] moved farther away from the tenuous contact with reality which he had when I last saw him and which he probably would have now. [Applicant] is a gullible individual who could be easily persuaded to enter into unusual belief systems, including many outside the standard world view for the American value system. It would be unusually easy to manipulate or persuade this gentleman to release secrets. He would be vulnerable to anyone whom he allowed to enter his magic world. He might conceivably believe it was acceptable to release information to the "Secret Cat" or ground evils, or bishops, which are similar to ground devils.

[Applicant's] conditions are inherent and basically lifelong. A man with these cognitive and perceptual distortions and eccentricities is farthest from one who should be entrusted with national security.

Applicant was evaluated by a psychologist on November 11, 2008, who was provided the above Applicant's psychiatric evaluation and clinical records. The psychologist administered the Minnesota Multiphasic Personality Inventory to Applicant who took over three hours to complete the test, an extraordinary time. The validity scale for the test indicates Applicant attempted to present himself in a somewhat positive light, as a moral and trustworthy person. The profile was considered valid. The psychologist noted that the test showed Applicant was mildly depressed, with extremely low energy. He avoids eye contact with others and feels uncomfortable in social situations. There were no indications in the basic profile of any psychotic thinking or delusional material. There was a high degree of social discomfort. From the test and the interview, it does not appear that Applicant seeks or enjoys close relationships. He lacks close friends and chooses solitary activities. During the interview, Applicant was friendly and cooperative. He made appropriate eye contact. There were no indications of depression. He denied any hallucinations and there were no indications of any delusional material.

The psychologist determined Applicant was not likely to form close relationships at work or in the community. His diagnosis was only Schizotypal Personality Disorder

with a pervasive pattern of detachment from social relationships, and a restricted range of expression of emotions in interpersonal settings, beginning by early adulthood and present in a variety of contexts. The condition is long-lasting, a relatively stable pattern, but likely to continue throughout his lifetime. By itself, it is unlikely to cause a defect in judgment or reality. The disorder does interfere with Applicant's social interaction. It is pervasive and does not necessarily show patterns of remission and exacerbation (Item 9).

In his response to the SOR (Item 3), Applicant denied having a Schizotypal Personality Disorder or a Schizoid Personality Disorder. He does not have any feeling of paranoia or delusional thought. He did admit a fear of people or social activities. He does enjoy certain social activities to include family gatherings and reunions, company picnics, attending sporting and cultural events, and attending church. He admits to being shy and introverted. He thinks his disorder is:

. . . a mild Pervasive Developmental Disorder, which has an early childhood onset and improves with age, as opposed to the personality disorders in question, which usually have an adult onset. As a child, I was a late talker, and I often engaged in many unusual fantasies throughout most of my childhood. As an adult that is no longer the case.

In response to the FORM, Applicant admits to being obsessive compulsive as a child but he is not obsessive compulsive now. The symptoms of being forgetful, disorganized, prone to misplacing, tardy, messy, and inattentive are characteristics of attention deficit disorder which are now under control with adequate sleep and proper thyroid medication. He has not had an outburst of temper in years. He does not "drop out" for the same reasons. He does have sleep apnea which is under control. He does not have a lifelong odd belief and magical thinking. He believes the psychiatrist came to his conclusions based on things Applicant told him about his thoughts as a child. He has no problem being in public during the day but does prefer privacy when he goes home. He would not have this privacy if he was married or had a family. Many of the concepts listed by the psychiatrist were from his childhood and no longer a condition or present.

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the revised Administrative Guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's over-arching adjudicative goal is a fair, impartial and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the

“whole person concept.” The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that “[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the applicant is responsible for presenting “witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . .” The applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the 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.

Analysis

Guideline I, Psychological Conditions:

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 (AG ¶ 28).

Applicant was the patient of a psychiatrist for over five years. The psychiatrist concluded Applicant has Schizotypal Personality Disorder and has characteristics of Schizoid Personality Disorder. He notes his lifelong odd beliefs and magical thinking. He notes Applicant's borderline of reality and abnormality, and that his borderline of this world and the other world is vague and indistinct. He concluded that Applicant absolutely should not have access to classified information or be entrusted with national security. This opinion raises psychological conditions disqualifying conditions (PH DC) ¶ 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); and PH DC AG ¶ 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).

I have considered psychological conditions mitigating conditions (PH MC) AG ¶ 29(a) (the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan; PH MC AG ¶ 29(b) (the individual has voluntarily entered a counseling or treatment program for the condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional); and PH MC AG ¶ 28(c) (recent opinion by a duly qualified mental health professional employed by or acceptable to and approved by the U. S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation); PH MC AG ¶ 28(d) (the past emotional instability was a temporary condition (e.g., one caused by death, illness, or marital breakup), the situation has been resolved and the individual no longer shows indications of emotional instability); and PH MC AG ¶ 28(e) (there is no indication of a current problem). The psychiatrist determined that Applicant has the inherent lifelong condition of Schizotypal Personality Disorder with characteristics of Schizoid Personality Disorder. The psychologist had a similar diagnosis of Schizotypal Personality Disorder that is long lasting and likely to continue throughout his life. Based on these diagnoses, none of the mitigating conditions apply. The condition is not treatable, there is no ongoing treatment program, and Applicant is not under medical care or therapy for the condition. Since the condition is lifelong and inherent, it is not controllable and is not resolved.

Whole Person Concept

Under the whole person concept, the administrative judge must evaluate an applicant's security eligibility by considering the totality of the applicant's conduct and all the circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(a):

- (1) the nature, extent, and seriousness of the conduct;
- (2) the circumstances surrounding the conduct, to include knowledgeable participation;
- (3) the frequency and recency of the conduct;
- (4) the individual's age and maturity at the time of the conduct;
- (5) the extent to which participation is voluntary;
- (6) the presence or absence of rehabilitation and other permanent behavioral changes;
- (7) the motivation for the conduct;
- (8) the potential for pressure, coercion, exploitation, or duress;
- and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

The psychiatrist and the psychologist came to similar conclusions as to Applicant's condition, but had different opinions as to the effect of Applicant's condition on his security worthiness. The psychiatrist after treating Applicant for over five years in numerous sessions stated Applicant should absolutely not be trusted with classified information. The psychologist noted that by itself the condition is unlikely to cause a defect in judgment or reality, and therefore Applicant's ability to safeguard classified information. The psychiatrist's opinion is entitled to greater weight. In the medical field, a psychiatrist's opinion, as a medical doctor, is more highly regarded than that of a psychologist. In addition, the psychiatrist examined and treated Applicant for over five years, seeing him on multiple visits and sessions. The psychologist only saw Applicant on limited visits and examined some test results. The psychologist's opinion did not overcome the psychiatrist's opinion and does not establish that Applicant should have access to classified information. Accordingly, Applicant has not established that he is trustworthy, reliable, and exercises good judgment. The record evidence leaves me with questions about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the security concerns arising from his psychological condition.

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 I:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

THOMAS M. CREAN
Administrative Judge