



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



In the matter of:

ISCR Case No. 08-07988

Applicant for Security Clearance

Appearances

For Government: Braden M. Murphy, Esquire, Department Counsel

For Applicant: Charles Tucker, Jr., Esquire

September 9, 2009

Decision

ANTHONY, Joan Caton, Administrative Judge:

After a thorough review of the case file, pleadings, exhibits, and testimony, I conclude that Applicant mitigated the Government's security concerns under Guideline J, Criminal Conduct, and Guideline F, Financial Considerations. However, he failed to mitigate the Government's security concerns under Guideline H, Drug Involvement, and Guideline E, Personal Conduct. His eligibility for a security clearance is denied.

Applicant executed a security clearance application (SF-86) on October 3, 2001. On January 2, 2008, he completed and signed a Questionnaire for Sensitive Positions (Questionnaire). On April 23, 2009, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) detailing the security concerns under Guideline H, Drug Involvement, Guideline J, Criminal Conduct, Guideline E, Personal Conduct, and Guideline F, Financial Considerations. 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.

On May 18, 2009, Applicant answered the SOR in writing and elected to have a hearing before an administrative judge. The case was assigned to me on June 29, 2009. DOHA issued a Notice of Hearing on July 10, 2009, and I convened a hearing on August 10, 2009, to consider whether it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. The Government called no witnesses and introduced four exhibits, which were marked Ex. 1 through 4 and admitted to the record without objection. Applicant testified on his own behalf, called four witnesses, and introduced eight exhibits, which were marked Exs. A through H. Applicant's exhibits were admitted to the record without objection.

To conform the allegation at SOR ¶ 3(c) with facts elicited at the hearing, Department Counsel moved to amend the allegation to read: "In or about April 2005, you misused a cellular phone issued by . . . [your federal] employer, by incurring over \$20,000 in personal phone charges.¹ As of September 16, 2008, the balance was approximately \$19,245.24." The amendment to the SOR was approved without objection. DOHA received the transcript (Tr.) of the hearing on August 14, 2009.

Findings of Fact

The SOR contains three allegations of disqualifying conduct under AG H, Drug Involvement (SOR ¶¶ 1.a. through 1.c.); two allegations of disqualifying conduct under AG J, Criminal Conduct (SOR ¶¶ 2.a. and 2.b.); three allegations of disqualifying conduct under AG E, Personal Conduct (SOR ¶¶ 3.a. through 3.c.); and one allegation of disqualifying conduct under AG F, Financial Considerations (SOR ¶ 4.a.). In his Answer to the SOR, Applicant admitted the three allegations under AG H; he denied the two allegations under AG J; he admitted the three allegations under AG E; and he admitted the one allegation under AG F. He also provided additional information. Applicant's admissions are admitted herein as findings of fact.

Applicant is 31 years old, never married, and employed as a senior consultant by a government contractor. In 2001, he earned a bachelor's degree, and in 2002, he acquired a position as a contract special investigator. In that job, he was responsible for investigating the backgrounds of individuals who applied for security clearances. In order to carry out these duties, he was granted a security clearance. He was also subject to random drug tests. (Ex. 2; Tr. 134-136.)

Applicant left his job as a special investigator in 2003 and accepted federal employment as a special agent. His duties required that he hold a security clearance. For two years, he was assigned to a field office. In April 2005, he was assigned to a security detail in a foreign country for approximately 45 days. While on this assignment, Applicant was told he could use his government cell phone to make short personal calls, and he was informed that incoming calls were free. During the 45 days he was assigned in the foreign country, Applicant accrued between \$25,000 and \$30,000 in charges on

¹ The amendment deleted "April 2006" and substituted instead "April 2005." In this narrative, I have deleted the name of the federal agency involved to protect Applicant's privacy.

his government cell phone. His agency demanded repayment, and Applicant complied. He made some payments to the agency, which were returned to him. The agency reported that Applicant had paid \$2,784 on the debt as of August 3, 2009. The current balance on the account is \$18,892. Applicant has been making regular payments on the debt, and the agency does not consider the debt to be delinquent. To date, he believes he has had paid about \$5,000 to the agency to satisfy the debt. (Answer to SOR; Ex. 2; Ex. 3 at 8-9; Ex. F; Tr. 115-123, 141, 145, 155.)

In October 2005, as a special agent licensed to carry a firearm, Applicant was assigned to the security detail of a high government official. On a weekend in March 2006, while off-duty, he and two friends traveled in Applicant's automobile to an Eastern U.S. city to celebrate his birthday. During the trip, Applicant used marijuana belonging to one of his friends. The friend stored two or three small bags of marijuana in the console of Applicant's car. (Ex. 2; Ex. 3; Tr. 146-147.)

As Applicant and his friends were returning from their trip, his car was pulled over by police. As the police were approaching his vehicle, Applicant opened the console to retrieve his badge, which he intended to show to the police officers. He saw the bags of marijuana and put them in his pocket. (Ex. 3 at 8.)

Applicant had his duty weapon with him in his automobile. When the officers saw the weapon under a seat, they ordered Applicant and his two friends out of the car. They ordered the three men to lie down on the ground between Applicant's car and the police car. In his response to DOHA interrogatories, dated September 18, 2008, Applicant reported the following:

While on the ground, I was still scared, so I threw the small bags of marijuana under the police car. A few minutes went by and I saw an officer pull out a very, very small amount of marijuana in a plastic bag from my car. Then, we were all handcuffed and our rights were read out to us. One officer picked me up, took my handcuffs off of me and handed me my badge. An officer took me to the side and asked, "Who[se] marijuana is it and who was smoking?" [My companions] both have young children. I didn't want their families [to] have to suffer and them [to] get into any trouble that would put their families in a bad position. So, I told the police the marijuana was mine and I was the only one smoking. I was given a sobriety test and passed it.

One of the police vehicles pulled off and an officer spotted the small bags of marijuana I threw under the car. He asked me if they were mine and I never responded. Then, I was taken to a police car and transported to the police station.

(Ex. 3 at 8; Tr. 103-104.)

Applicant was arrested and charged with Possession of Marijuana Under 50 Grams. In the jurisdiction where Applicant was arrested, the drug possession charge was identified as “a disorderly person offense,” a misdemeanor. On the advice of his attorney, he pleaded guilty. He was fined about \$833, sentenced to six months probation with drug tests, and granted a conditional discharge, which was dismissed in about January 2007. (Ex. 3 at 8; Ex. 4; Tr. 109-110, 147.)

The officers who arrested Applicant informed his employer of the arrest. When Applicant reported for duty on the first work day following his arrest, he was given a drug test and tested positive for marijuana. Applicant’s security clearance was revoked. He was removed from his job as a special agent and reassigned to a non-sensitive position. He resigned from the agency in October 2006. (Tr. 137-139, 145-148.)

Applicant stated that his arrest in March 2006 was his first negative encounter with law enforcement. He stated that his one and only use of marijuana occurred on the night he was arrested. He denied using illegal drugs of any kind during his adolescent and college years. He asserted that he would never use illegal drugs in the future. He has limited his social contacts with the individuals with whom he used marijuana in March 2006. Additionally, he asserted that his conduct during the search and arrest was cooperative and professional. He also suggested that the officers who stopped his car on March 12, 2006, did so without a valid reason to arrest him. (Ex. 3 at 3; Tr. 105-109, 111-113; 149-150.)

Four character witnesses testified on Applicant’s behalf. Two witnesses were childhood friends of the Applicant. All four witnesses spoke highly of Applicant and stated that he was not a drug user. (Tr. 35-81.)

Applicant also provided letters of character reference from individuals who knew him well. They too attested to his good character and reliability. His contractor team lead described him as an “excellent worker” who “is always courteous, helpful, and dedicated.” Applicant’s performance review for the period of March 2008 through December 2008 indicated an overall rating of 4, identified as “exceeds expectations in all key areas.” (Ex. A through Ex. E, Ex. G.)

Applicant’s current annual salary is \$73,542. His take home pay is about \$3,600 per month. He resides in his parent’s home. Recently, Applicant became a father. He pays the mother of his child \$1,100 a month in child support. He pays his debts, and has no delinquencies. (Ex. H; Tr. 140, 156-164.)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security, and it has emphasized that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine

whether an individual is sufficiently trustworthy to have access to such information. *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant Applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended and modified.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). 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, the administrative judge applies these guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial and common sense 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.

Section 7 of Executive Order 10865 provides that 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.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline H, Drug Involvement

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual’s reliability and trustworthiness because it may impair judgment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations. AG ¶ 24(a) defines drugs as “mood and behavior altering substances.” The definition of drugs includes “(1) drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and (2) inhalants and other similar substances.” AG ¶ 24(b) defines drug abuse as “the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.”

The record shows that Applicant admitted the illegal use and possession of marijuana in March 2006. He tested positive for that illegal drug use, which occurred while he held a security clearance. This conduct casts doubt on his reliability, trustworthiness, and good judgment. It also raises security concerns about his ability or willingness to comply with laws, rules, and regulations. I conclude that Applicant’s illegal drug use raises security concerns under AG ¶¶ 25(a), 25(b), 25(c), and 25(g).²

Two Guideline H mitigating conditions might apply to the facts of Applicant’s case. If Applicant’s drug use happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on his current reliability, trustworthiness, or good judgment, then AG ¶ 26(a) might be applicable in mitigation. If Applicant demonstrated an intent not to abuse any drugs in the future by disassociation from drug-using associates and contacts, changing or avoiding the environment where drugs were used, abstaining from drug use for an appropriate period, and signing a statement of intent with the automatic revocation of his security clearance for any violation, then AG ¶ 26(b) might be applicable.

The record shows that Applicant’s drug use is not recent and, according to his testimony, occurred only once. Applicant stated he had not used marijuana since his one-time use in March 2006, and he provided testimonial evidence corroborating his statement about his abstinence from friends and others who knew him socially.

² AG ¶ 25(a) reads: “any drug abuse [as defined at AG ¶ 24(b)].” AG ¶ 25(b) reads: “testing positive for illegal drug use.” AG ¶ 25(c) reads: “illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.” AG ¶ 25(g) reads: “any illegal drug use after being granted a security clearance.”

Applicant stated he had changed his behavior and activities after his use of marijuana in March 2006 and his subsequent decision to abstain from illegal drugs.

However, when Applicant used marijuana in 2006, he was a mature adult of 28 years, and he had held a security clearance for approximately four years. During those four years, he worked as a special investigator and as a special agent, occupations that require maturity, stability, and good judgment. In his work as a special investigator, he was thoroughly familiar with the security concerns related to illegal drug use because he was required to inquire about and investigate illegal drug use by individuals who sought access to classified information. As a special agent, he had been authorized to carry a firearm and to protect a high government official. With this background, his decision to use marijuana even once three years ago, while entrusted with a security clearance as a federal law enforcement officer, raises serious questions about his judgment, trustworthiness, and reliability. Even though he expressed remorse for his behavior and the negative impact it had on his career, he also suggested that his arrest was unwarranted. I conclude that insufficient time has passed to demonstrate a positive and permanent change in behavior. I conclude that AG ¶¶ 26(a) and 26(b) do not fully apply in mitigation to the security concerns raised by the facts in Applicant's case.

Criminal Conduct

Under the Criminal Conduct guideline "[c]riminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations." AG ¶ 30.

In March 2006, Applicant was arrested and charged with Possession of Marijuana Under 50 Grams, a misdemeanor crime identified as a disorderly person offense. He pled guilty and was fined about \$833, sentenced to six months probation with drug tests, and granted a conditional discharge. The charge was dismissed in January 2007. In his Answer to the SOR, Applicant admitted this criminal conduct.

Applicant's criminal behavior raises a security concern under AG ¶ 31(c). AG ¶ 31(c) reads: "allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted."

Two Criminal Conduct mitigating conditions might apply to the Applicant's case. If "so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment," AG ¶ 32(a) might apply. If "there is evidence of successful rehabilitation, including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive involvement," then AG ¶ 32(d) might apply.

Applicant averred that his use of illegal drugs occurred only once in his life: on the night in March 2006 when he was arrested and charged with Possession of Marijuana Under 50 Grams. Since that time, he has had no other arrests or charges of illegal drug use or possession, and the record reflects no other criminal conduct of any kind by Applicant. He has demonstrated a good employment record, and his recent performance evaluation shows he exceeds his employer's expectations in all key areas. I conclude Applicant's criminal conduct has been mitigated by the passage of time and he has demonstrated successful rehabilitation. AG ¶¶ 32(a) and 32(c) apply in mitigation to the criminal conduct allegations in this case.

Guideline E, Personal Conduct

AG ¶ 15 explains why personal conduct is a security concern:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

In 2005, when Applicant was assigned overseas as a federal law enforcement officer, his employer gave him permission to use his official cell phone to make brief personal phone calls back to the United States. Within a period of about 45 days, Applicant's personal use of his official phone caused his employer to be charged between \$25,000 and \$30,000. This excessive use suggested that Applicant was inattentive to his responsibility to follow his employer's instructions and rules for making prudent use of government resources.

In March 2006, Applicant used marijuana while holding a security clearance as a federal law enforcement officer. While Applicant asserted that his demeanor was cooperative and professional when he was stopped and searched by police, his own account in his response to interrogatories reveals he behaved in ways that were intended to obstruct justice and confuse the arresting officers. Before the police approached his car, Applicant reached in the console, grabbed three bags of marijuana, and put them in his pocket. He didn't want the police to discover the marijuana. Later, when he was on the ground and the police were searching his car, he took the bags of marijuana from his pocket and threw them under the police car so the police would not find them. When a police officer later discovered the bags of marijuana on the ground, he asked Applicant if they belonged to him. Applicant did not respond to the officer's question. When he carried out these actions, Applicant was an off-duty federal law enforcement officer. When he reported these facts in response to DOHA interrogatories in September 2008, he expressed remorse in a personal sense but did not discuss how this conduct contradicted his duties and responsibilities as a federal law enforcement officer.

When Applicant's employer learned of his arrest for marijuana possession, it required that he submit to a drug test. The drug test revealed Applicant's marijuana use, and his employer revoked his security clearance.

The allegations in the SOR raise security concerns under AG ¶¶ 16(d)(4) and 16(e)(1). AG ¶ 16(d)(4) reads:

Credible adverse information that is not explicitly covered under any other guideline and may not be sufficient in itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of. . . (4) evidence of significant misuse of Government or other employer's time or resources.

AG ¶ 16(e)(1) reads: "personal conduct, or concealment of information about one's conduct, that creates vulnerability to exploitation, manipulation, or duress, such as. . . engaging in activities which, if known, may affect the person's personal, professional, or community standing"

Several Guideline mitigating conditions might apply to the facts of this case. Applicant's disqualifying personal conduct might be mitigated under AG ¶ 17(c) if "the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not case doubt on the individual's reliability, trustworthiness, or good judgment."

AG ¶ 17(d) might apply if "the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur." AG ¶ 17(e) might apply if "the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress." AG ¶ 17(f) might apply if "the information was unsubstantiated or from a source of questionable reliability." Finally, AG ¶ 17(g) might apply in mitigation if "association with persons involved in criminal activity has ceased or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations."

Applicant has expressed regret for the behavior that led to the large cell phone indebtedness and the revocation of his security clearance. He provided documentation showing that he was addressing the cell phone debt he owes to the federal agency where he worked as a special agent. He asserted he has no intention to use illegal drugs in the future, and he stated that while he occasionally sees the individuals with whom he used marijuana in March 2006, he does not actively socialize with them anymore.

Applicant's failure to follow his employer's instructions about the use of his government cell phone and his use of marijuana while holding a security clearance was consequential and occurred in 2005 and 2006. The information about these acts was credible and provided by his former agency and a police department in the jurisdiction where he was arrested and charged with illegal drug possession. These acts did not occur under such unique circumstances that they would not seriously raise concerns about his reliability, trustworthiness, and good judgment and perhaps impact his eligibility for a security clearance. Applicant failed to provide documentation that he had taken positive steps that might alleviate the circumstances that caused his unreliable conduct and, as a result, such behavior was unlikely to recur. Nothing in the record suggests that Applicant took positive steps to reduce or eliminate the vulnerability to exploitation, manipulation, or duress that his behavior caused. I conclude that AG ¶ 17(g) applies in mitigation to the facts of Applicant's case but that AG ¶¶ 17(c), 17(d), 17(e) and 17(f) are not applicable .

Because almost every aspect of a person's life can be evaluated generally as a security concern under Personal Conduct, I have considered all of the facts in this case from a Personal Conduct perspective. I find that when Applicant's conduct is viewed from a whole person perspective, questions remain about his judgment, reliability, and trustworthiness.

Guideline F, Financial Considerations

The security concern relating to the guideline for Financial Considerations is set out in AG ¶ 18:

Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds.

The guideline notes several conditions that could raise security concerns. Under AG ¶ 19(a), an "inability or unwillingness to satisfy debts" is potentially disqualifying. Similarly under AG ¶ 19(c), "a history of not meeting financial obligations" may raise security concerns.

The SOR alleged that a financial considerations security concern arose over Applicant's cell phone debt of approximately \$19,245 to his former employer. However, at his hearing, Applicant provided documentation to corroborate his statement that he was making timely payments to the agency to satisfy the debt. No other financial delinquencies were alleged. I conclude that Applicant rebutted the financial considerations security concern alleged in the SOR.

Whole Person Concept

Under the whole person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all relevant circumstances. The 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 eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of all relevant facts and circumstances surrounding this case. Applicant's one-time use of marijuana was not simply an isolated use of an illegal drug. He used the drug as an off-duty federal law enforcement officer who held a security clearance. When his car was stopped by police who undertook to search his car for illegal drugs, Applicant took evasive action to hide the drugs from the police and to deter their investigation. His primary concern was to protect himself and his friends from the consequences of their illegal drug use. In September 2008, he reported this information to DOHA in response to interrogatories, but he did not accept responsibility, as a federal law enforcement officer, for obstructing a police search. This raises continuing concerns about his judgment, reliability, and trustworthiness.

Applicant has expressed an intent to abstain from illegal drug use in the future. He is considered an excellent worker by his present employer. He does not actively socialize with the two individuals with whom he used marijuana in 2006. He is paying his former employer regularly to satisfy the debt he incurred for unauthorized use of a government cell phone.

I have considered all available, reliable information in the record about Applicant, past and present, favorable and unfavorable, in making this decision. At his hearing, I carefully observed Applicant's demeanor and I assessed his credibility.

Overall, the record evidence leaves me with questions and doubts at the present time as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising from his drug involvement and personal conduct.

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 H:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Paragraph 2, Guideline J:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	For Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant
Subparagraph 3.b:	Against Applicant
Subparagraph 3.c:	Against Applicant
Paragraph 4, Guideline F:	FOR APPLICANT
Subparagraph 4.a:	For Applicant

Conclusion

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

Joan Caton Anthony
Administrative Judge