



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



In the matter of: )  
)  
) ISCR Case No. 11-09724  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: John Bayard Glendon, Esq., Deputy Chief Department Counsel  
For Applicant: Richard L. Morris, Esq.

08/13/2013

**Decision**

CREAN, Thomas M., Administrative Judge:

Based on a review of the pleadings, exhibits, and testimony, eligibility for access to classified information is denied.

**Statement of the Case**

On July 25, 2011, Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) to obtain a security clearance required for a position with a defense contractor. After an investigation conducted by the Office of Personnel Management (OPM), the Department of Defense (DOD) issued Applicant interrogatories to clarify or augment potentially disqualifying information. After reviewing the results of the background investigation and Applicant's response to the interrogatories, DOD could not make the affirmative findings required to issue a security clearance. On March 11, 2013, DOD issued a Statement of Reasons (SOR) to Applicant detailing security concerns for personal conduct under Guideline E and criminal conduct under Guideline J. These actions were 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 adjudicative guidelines (AG) effective in the DOD on September 1, 2006. Applicant acknowledged receipt of the SOR on March 21, 2013.

Applicant answered the SOR on March 26, 2012. He admitted in part and denied in part the personal conduct allegations under SOR 1.a through SOR 1.d. He denied the allegation in SOR 1.e. He admitted and denied in part the criminal conduct allegation under SOR 2.a, consistent with his admissions and denials under SOR paragraph 1. He requested a hearing before an administrative judge. Department Counsel was prepared to proceed on June 7, 2013. The case was assigned to me on June 18, 2013. The Defense Office of Hearings and Appeals (DOHA) issued a Notice of Hearing on June 28, 2013, for a hearing on July 23, 2013. I convened the hearing as scheduled. The Government offered 17 exhibits, which I marked and admitted into the record without objection as Government exhibits (Gov. Ex.) 1 through 17. Applicant and one witness testified. DOHA received the transcript of the hearing (Tr.) on July 31, 2013.

### **Findings of Fact**

After a thorough review of the pleadings, transcript, and exhibits, I make the following essential findings of fact. The SOR lists five actions by Applicant of personal conduct security concern. Four of the five actions are cross-alleged as criminal conduct security concerns. Applicant admitted to certain aspects of each of the allegations. His admissions are included in my findings of fact.

Applicant is a 37-year-old security analyst for a defense contractor. He was basically raised by his grandparents because his father was on active duty in the Navy and his mother accompanied him on assignments. He is a high school graduate with a bachelor's and master's degrees. He has never been married but he has sole custody of his 11 year old daughter. Applicant served four years on active duty in the Marine Corps from 1998 until 2002 as a radio telecommunication specialist. He left the Marine Corps for a few months but returned and served for four more years from 2002 until 2006 as a network security specialist. He then transferred to the Marine Corp Reserve and served a few years supporting a security battalion. He received honorable discharges at the completion of each of the active duty tours. He again returned to active duty in 2008 but was discharged after a court-martial with a bad conduct discharge in 2010. (Tr. 36-41; Gov. Ex. 1, e-QIP, dated July 25, 2011)

The SOR alleges security concerns for both personal conduct and criminal conduct. Under criminal conduct, it is alleged Applicant in June 2010 was court-martialed for disrespect and disobedience, false statement, wrongfully and willfully impersonating an officer, and disobeying an order, and sentenced to a bad conduct discharge, four months confinement, and reduction to private E-1 (SOR 1.a); that he was convicted in October 2002 for fraudulent use of a birth certificate and driver's license and sentenced to confinement and probation which were suspended (SOR 1.b); that he was convicted in September 2002 for false summons or false report to police

and sentenced to jail for 30 days confinement suspended (SOR 1.c); that Applicant appeared in a state court for extradition on the above two offenses (SOR 1.d); and that he had a person take the Armed Forces Qualification Test (AFQT) for him to enter the military (SOR 1.e). The allegation of criminal conduct is a cross-allegation of the offenses in SOR 1.a, 1.b, 1.c, and 1.d as criminal conduct (SOR 2.a).

When Applicant was in high school, his career plans were to join the military. He discussed his plans with a military recruiter and took the Armed Forces Qualification Test (AFQT). Unfortunately, he was unable to pass the test. He took the test a number of times both before and after he graduated from high school but continued to fail the test. In 2000, after completing high school and at the suggestion and assistance of his recruiter, Applicant arranged for an individual to take the AFQT for him. Applicant, the individual, and the recruiter went to a state motor vehicle office so the individual could obtain a driver's license using Applicant's birth certificate and social security information. The driver's license was obtained in Applicant's name with the individual's picture. The individual used the driver's license as identification to take and pass the AFQT in Applicant's name. Applicant was able to enter active duty in the Marine Corps. In November 2001, Applicant and the individual that took the test for Applicant admitted to Marine Corps military police investigators their fraudulent actions to obtain the driver's license and use it to take the AFQT. (Tr. 41-42, 56-59; Gov. Ex. 12, Individual's Statement, dated November 1, 2009; Gov. Ex. 13, Applicant Statement, dated November 16, 2001; SOR 1.e)

State A, that issued the driver's license, learned of the fraudulent application and charged Applicant with criminal offenses. Applicant was stationed as a Marine in state B. State A issued a warrant for Applicant's arrest and a request for his extradition state B. In December 2001, Applicant appeared in the local court in state B with his first sergeant, waived any objection to the extradition, and returned with his first sergeant to the state A. In April 2002, Applicant appeared in court in state A and was charged with the felony offenses of fraudulent use of a birth certificate to obtain a driver's license. In October 2002, he pled guilty to a misdemeanor and sentenced to 12 months of confinement suspended, and supervised probation for a year. (SOR 1.b) In September 2002, state A's motor vehicle department also charged him with conspiracy to commit a felony by having another person request a driver's license in his name. He was found guilty and sentenced to a 30-day suspended jail term. (SOR 1.c) The criminal offenses, except for the extradition, were cross-alleged as criminal conduct (SOR 2.a)

Applicant over time and in different settings told many different variations of the incident and the criminal charges. On a security clearance application Applicant completed on March 26, 2001, Application listed no criminal offenses. At that time, he had not been charged with a criminal offense. (Gov. Ex. 15, SF 86, dated March 26, 2001) As noted above, in November 2001, he admitted his involvement in the false driver's license incident to military police investigators. In a May 2005 security clearance application, Applicant listed the incident as a false identification misdemeanor. (Gov. Ex. 14, SF 86, dated May 27, 2005) In response to a question concerning his criminal record on a security clearance application submitted on September 16, 2009, Applicant listed the offense but stated it arose from his brother trying to use Applicant's

identification card. He stated that his brother used one of his old identifications to obtain a new driver's license issued in Applicant's name and birthday. His brother was convicted of a misdemeanor and sentenced to a jail term. Applicant stated he was convicted of a misdemeanor and sentenced to one day of community service. Applicant did not state why he was convicted since it was his brother that committed the offense. Also, Applicant did not list the other state A offense of conspiracy to commit a felony. (Gov. Ex. 10, Criminal Record, dated March 11, 2010; Gov. Ex. 11, FBI Criminal Record Check, dated August 2, 2011; Gov. Ex. 16, e-QIP, dated September 16, 2009, at 37)

Applicant was twice questioned In August and September 2011 by a security investigator about his criminal record, his civilian employment, his finances, his military service, and other issues. In regard to the two convictions stemming from the false driver's license, Applicant told a number of variations of the convictions. He initially stated his wallet had been stolen and someone used his identity. He stated that the false driver's license charge was a result of the theft and he denied that the convictions pertained to him and that the convictions must be connected to someone using the same name but a different spelling. In the second interview, he denied that he was involved in having a person take the AFQT for him (SOR 1.e), or the conviction for fraudulent use of a birth certificate (SOR 1.b). He did admit the conviction for conspiracy to commit a felony pertained to him (SOR 1.c). He stated that he did not disclose his arrests to potential employers because the arrests were expunged from his record. (Gov. Ex. 3, Response to Interrogatories, dated November 29, 2012, See Testimonies at 2, 28, and 31)

Later in the September 2011 interview, Applicant described the birth certificate incident as providing, at the request of the recruiter, his birth certificate to an underage recruit with his birth certificate to enable the underage recruit to enlist. The underage recruit, the recruiter, and Applicant were separately charged and tried. He did not testify at the trials. He stated he was found not guilty of the first offense, but was found guilty of the second offense. He was sentenced to 30 days in jail and a fine. He further stated that the punishments were dropped because he was on active duty. His conviction and his extradition were later expunged. As to the second offense, he stated that the police got his explanation "backwards." He was tried on that offense and received a sentence of 30 days in jail and a \$1,000 fine. Since he was on active duty, the sentence was reduced to 30 days of community service. (Gov. Ex. 3, Response to Interrogatories, dated November 29, 2012, See Testimonies at 11)

In the September 2011 interview, Applicant again stated that his birth certificate and social security information were used to assist an underage recruit to enter the military. There were many discrepancies in Applicant's testimony in the two interviews. The investigator extensively questioned Applicant and Applicant continued to recite facts that were inconsistent with his previous testimony. (Gov. Ex. 3, Response to Interrogatories, dated November 29, 2012, See, Testimonies at 34-35)

In response to the SOR, Applicant admitted the fraudulent use of a birth certificate offense (SOR 1.a), but only admitted in part and denied in part the allegations pertaining to the conspiracy to commit a felony and the extradition appearance (SOR

1.c and 1.d). At the hearing, Applicant stated he denied the allegation in response to the SOR because he was scared. (Tr. 60-61) He initially admitted participating in the fraud, but he placed the blame on the recruiter and stated he did not know how he passed the test. (Tr. 42-45) He admitted that he had denied all allegations when speaking to the security investigator. However, at the hearing on July 23, 2013, he admitted that the allegations are true. (Tr. 61-63)

In 2008, Applicant received orders from the Marine Corps assigning him to a unit in Okinawa. Applicant did not want to be deployed because he had to care for his father who was seriously ill, and because he was the sole caregiver and support for his 11-year-old daughter. He attempted to have the orders changed through normal channels but his requests were denied. In talking to his unit commander, Applicant made disrespectful comments about the commander. After the attempts, a number of calls were made to his unit from an "Admiral Thomas" asking for Applicant to be taken off orders. Applicant's unit commander alleged that Applicant made the calls impersonating an admiral. The calls were traced to a phone registered to Applicant. Applicant was tried by special court-martial for disrespect to an officer, impersonating an officer, and wrongful endeavor to influence a statement. He pled not guilty, but was found guilty of all offenses. He was sentenced to a bad conduct discharge, confinement for four months, and reduction to private E-1. He served 80 days in the brig and was subsequently discharged from the Marine Corps with a bad conduct discharge. (Gov. Ex. 4, Charge Sheet, dated April 4, 2008, Gov. Ex. 5, Court-Martial Order, dated November 29, 2007; Gov. Ex. 6, Court-Martial Action and Order, dated July 14, 2009; Gov. Ex. 7, Trial counsel's Result of Trial, dated January 15, 2009)

Applicant did not list his court-martial in a security clearance application he completed on September 2009. He did note the court action against him for the use of his birth certificate. However, he stated that it was his brother that used his ID card to obtain a driver's license to show he was over 21 years old. He stated that his brother was convicted and that he, Applicant, received one day of community service. (Gov. Ex. 16, e-QIP, dated September 16, 2009) Applicant submitted another security clearance application in March 2010, and did not list any criminal convictions. (Gov. Ex. 8, e-QIP, dated March 22, 2010) Applicant completed an application for federal employment in February 2010 and again did not list any criminal convictions. (Gov. Ex. 9, Declaration for Federal Employment, dated February 26, 2010) Applicant submitted another security clearance application in July 2011, and did not list his court-martial. He did note the conviction for conspiracy and using an expired ID card as a misdemeanor conviction that was expunged. (Gov. Ex. 1, e-QIP, dated July 25, 2011)

When interviewed in August 2011 by the security investigator and asked about the incident, Applicant told the investigator that his commander told him about the phone calls and showed him a telephone log of calls that he recognized as originating from his mother's phone. He was at his mother's house a few days later when his mother told him about calls that she and his uncle made to the command. He told the story to his command who did not believe him. He was then court-martialed and found guilty of the offenses. He told the investigator he spent four months in the brig. (Gov. Ex. 3, Response to Interrogatories, See Testimonies, dated August 14, 2011, at 7-8)

On the second interview with the security investigator, Applicant stated he learned of the calls from "Admiral Thomas" from his command. He denied making the calls. He told the investigator that he met his mother about two days after being told of the calls. He told the investigator about his uncle making the calls. He told the investigator that his uncle was a retired federal employee but did not know when and for whom he worked. Applicant told the investigator two different versions of his uncle's military or civilian service. Applicant told the investigator that he did not testify at the court-martial and never told anyone that his uncle made the calls. (Gov. Ex. 3, Response to Interrogatories, See, Testimonials, dated September 29, 2011 at 33-34) At the hearing, Applicant admitted he made all of the calls to the command saying he was "Admiral Thomas." (Tr. 45-47, 63-64) He admitted denying all allegations to the security investigator that he later admitted were correct at the hearing. He stated he was embarrassed about making the calls and impersonating a military officer. (Tr. 62-63)

The security investigator conducted an extensive interrogation of Applicant about his criminal conduct, court-martial, employment and other matters. In responding to the security investigator's inquiries, Applicant told shifting stories. The investigator opined that he had trouble making sense of Applicant's explanations as Applicant jumped around and mentioned different jobs and different explanations. The investigator tried to terminate the initial interview so Applicant could research the areas of concern and come back when he could properly recall his employment and answer the investigator's questions. Applicant refused, so the investigator continued the interview. He conducted a second round of questions after he reviewed Applicant's answers in the first interview and had an opportunity to gather more facts. A review of Applicant's answers to the security investigator establishes that Applicant was not truthful, honest, and forthcoming in response to the questions of the security investigator. (Gov. Ex. 3, Response to Interrogatories, See Testimonies, dated August 14, 2011)

Applicant's mother testified that Applicant was one of seven children. Applicant had a close relationship with his father. He was devastated when his father became sick in 2008 and almost became sick himself. He volunteered to donate a kidney to his father if that would help his father recover. He was extremely upset when he received orders to deploy because he wanted to stay and take care of his father and other family members. Applicant's mother was proud of Applicant when he entered the Marine Corps. After his court-martial, he continued to carry himself as a Marine. He went to school and finished his degrees. He never talked against the Marine Corps. Her son is honest and would do anything to care for her and his family. (Tr. 24-37)

## **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

disqualifying conditions and mitigating conditions, which must be considered 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 overarching 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 for 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 protect classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

## **Analysis**

### **Personal Conduct**

A security concern is raised because conduct involving questionable judgment, untrustworthiness, unreliability, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified information. Personal conduct is always a security concern because it asks the central question whether the person's past conduct justifies confidence the person can be entrusted to properly safeguard classified information. (AG ¶ 15)

Applicant's personal conduct was of security concern starting in 2000. He conspired in 2000 with a recruiter and another individual to have the individual obtain a driver's license using Applicant's birth certificate and then take the AFQT for Applicant so Applicant could enter the Marine Corps. When state A learned in 2002 of the fraudulent obtaining of a driver's license, Applicant was extradited from state B where he was serving in the Marine Corps and tried and convicted in two separate trials in state A for fraudulent use of a birth certificate and conspiracy to commit a felony. In 2010, Applicant was court-martialed by the Marine Corps. He was sentenced to a bad conduct discharge, reduction to the lowest grade, and three months in the brig for disrespect and disobedience to an officer, making a false statement, wrongfully, willfully impersonating a commissioned officer, and disobeying an order. The Government alleged the extradition from state B as a security concern. (SOR 1.e) The extradition was an integral part of the criminal process against Applicant and not a separate criminal action. I conclude that the extradition is not a security concern.

The remaining incidents raise Personal Conduct Disqualifying Condition AG ¶ 16(c) (credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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); AG ¶ 16(d) (credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by 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 indicting that the person may not properly safeguard protected information. This includes but is not limited to consideration of: (3) a pattern of dishonesty or rule violations); and AG ¶ 16(e) (personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress, such as (1) engaging in activities which, if known, may affect the person's personal, professional, or community standing).

The Government produced sufficient evidence to establish the disqualifying conditions as required in AG ¶¶ 16(c), 16(d), and 16(e). The burden shifted to Applicant to produce evidence to rebut, explain, extenuate, or mitigate the security concerns under financial considerations. An applicant has the burden to refute an established allegation or prove a mitigating condition, and the burden to prove or disprove it never



shifts to the Government. Applicant raised conditions that may mitigate the security concern

I considered Personal Conduct Mitigating Condition AG ¶ 17(c) (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 is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment); AG ¶17(d) (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); and AG ¶ 17(e) (the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress). These mitigating conditions do not apply.

Applicant started to engage in fraudulent and deceitful conduct in 2002 when he had an individual obtain a driver's license in Applicant's name to take the AFQT in his name. He was tried and convicted of fraud and conspiracy in a state court in 2002 for the conspiracy and fraud in obtaining a driver's license. In 2008, he impersonated an officer in his attempt to get released from deployment orders. He was convicted and discharged from the Marine Corps with a bad conduct discharge. He continued his deceitful and fraudulent conduct when he denied his involvement in the incidents and blamed the incidents on others when interviewed by security investigator in 2011 as well as responding to the SOR in 2012. He finally admitted his fraudulent and deceitful actions at the hearing before me in July 2013. His misconduct is not minor since he was actively engaged in fraudulent and deceitful conduct. While the initial incident took place over 13 years ago, his fraudulent and deceitful conduct is current since his pattern of behavior has continued at least into 2013. Applicant's involvement in the incidents is substantiated since it he was tried and convicted of the offenses in state court and at a Marine Corps court-martial. Applicant has failed to present sufficient information to mitigate the security concerns based on his conduct for personal conduct.

## **Criminal Conduct**

Criminal 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). Applicant was tried and convicted in state court for fraudulent use of a birth certificate to obtain a driver's license and conspiracy to commit a felony. He was convicted in both cases of a misdemeanor. He received a court-martial in 2010 for disrespect to an officer, impersonating an officer, false statement, and disobeying an order. This information raises Criminal Conduct Disqualifying Conditions AG ¶ 31(a) (a single serious crime or multiple lesser offenses), and AG ¶ 31(c) (allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted). Applicant's criminal actions raise questions about his ability and willingness to comply with laws, rules, and regulations.

I considered all of the mitigating conditions under criminal conduct, especially Mitigating Conditions AG ¶ 32(a) (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); and AG ¶ 32(d) (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 community involvement).

No criminal conduct mitigating condition applies. Applicant admits he knowingly and freely committed the fraudulent criminal conduct at his security hearing. The admitted criminal actions did not happen under any unusual circumstances. Applicant's actions show a repeated course of lying and deceitful conduct and for not following rules and regulations that is likely to recur. There does not appear to be any evidence of rehabilitation or an understanding by Applicant of his criminal conduct. His conduct continues to cast doubt on his reliability, trustworthiness, and good judgment.

### **Whole-Person Analysis**

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.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I considered that Applicant served eight years on active duty in the Marine Corps and twice received an honorable discharge. This good service is counter-balanced by his bad conduct discharge. I considered the testimony of his mother as to his reputation for honesty.

The Government did not charge Applicant with falsification of relevant facts on security clearance applications, to security investigators, or in other aspects of the security clearance process. There is considerable evidence that reflects adversely on

Applicant's credibility. I had considered Applicant's repeated denial of his involvement in the scheme to obtain a false driver's license as well as have an individual take the AFQT for him. He told different stories about the incidents blaming various people. He denied his involvement in the calls to his command attempting to change his deployment orders. He blamed the calls on the conduct of others. While Applicant admitted his conduct at the hearing before me on July 23, 2013, the course of conduct of denials and stories show that he is totally lacking in credibility. The security investigator who conducted extensive interviews of Applicant had difficulty determining the true facts. Applicant weaved many stories that showed his ability to lie and fabricate facts. While I seriously question Applicant's credibility, I do find that he told the truth at the hearing when he admitted that he was an active participant in having another person obtain a driver's license in his name and take the AFQT for him. He also told the truth when he admitted that it was he who called the command posing as an admiral requesting to have Applicant removed from deployment.

Applicant's behavior was deceitful, reckless, irresponsible, and showed poor judgment. He acknowledged his misconduct only recently. His action to obtain a fraudulent driver's license, have someone take the AFQT for him, and make calls impersonating an officer, indicates that he has questionable judgment, is untrustworthy, lacks reliability, and is unwilling to comply with rules and regulations. These incidents raise questions about Applicant's reliability, trustworthiness, and ability to protect classified information. The incidents indicate he may not properly handle, manage, or safeguard classified information. The record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the personal conduct and criminal conduct security concerns.

### **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 E:	AGAINST APPLICANT
Subparagraphs 1.a - 1.d:	Against Applicant
Subparagraph 1.e:	For Applicant
Paragraph 2, Guideline J:	AGAINST APPLICATN
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.

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THOMAS M. CREAN  
Administrative Judge