



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



Appearances

For Government: Daniel O'Reilly, Department Counsel
For Applicant: *Pro se*

11/20/2025

Decision

LOKEY ANDERSON, Darlene D., Administrative Judge:

Statement of Case

On September 17, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Financial Considerations; Guideline H, Drug Involvement and Substance Misuse; Guideline J, Criminal Conduct; and Guideline E, Personal Conduct. The action was taken under Executive Order (EO) 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 for cases after June 8, 2017.

Applicant answered the SOR on October 16, 2024, and requested a hearing before an administrative judge. The case was assigned to me on July 1, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 3, 2025, and the hearing was convened as scheduled on September 9, 2025. The Government offered thirteen exhibits, referred to as Government Exhibits 1 through 13, which were admitted without objection. The Applicant offered eighteen exhibits, referred to as Applicant's Exhibits A through R, which were admitted without objection. Applicant also testified on his behalf. The record remained open until close of business on September 16, 2025, to allow the Applicant the opportunity to submit supporting documentation. Applicant submitted two documents, referred to as Applicant's Post-Hearing Exhibits A and B, which were admitted into evidence. DOHA received the transcript of the hearing (Tr.) on September 19, 2025.

Findings of Fact

Applicant is 41 years old. He is married and has four children, ages 23, 21, 19 and 15. He has a GED and is employed as a Stockroom Assistant Specialist with a defense contractor. He is applying for a security clearance in connection with this employment. Applicant admits SOR allegations 1.a., 1.g., 1.h., 2.d., 2.f., 2.h., 2.i., 2.j., 2.k., 3.a., 3.b., 3.d., 3.e., 3.f., 3.g., 3.i., 4.a., 3.b., and 3.f. He denies the remaining allegations, except for 2.e., 4.g., and 4.h., that were withdrawn by the Government.

Guideline F - Financial Considerations

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness, and ability to protect classified information.

The SOR alleged under this guideline that Applicant is indebted to eight creditors, which includes a deficiency amount left on a mortgage foreclosure, and collection and charge-off accounts, totaling in excess of approximately \$13,000. Credit reports of the Applicant dated July 2, 2024; October 4, 2023; and September 26, 2023, confirm that each debt listed in the SOR was at one time owing. (Government Exhibits 4, 5, and 6.)

1.a. Applicant filed for Chapter 13 Bankruptcy on or about August 22, 2019. He made payments of about \$6,000 into the Bankruptcy plan, and then lost his job, and could not afford the payments. The plan was dismissed for failure to make the payments on February 4, 2021. (Tr. pp. 47-48, and Government Exhibit 3.)

The following delinquent debts became delinquent and are of security concern:

1.b. A delinquent debt is owed to a creditor for a mortgage account that was in foreclosure with a past due amount of approximately \$6,697. This was a house Applicant purchased in 2016 for \$91,000. He had to stop making the mortgage payments when he lost his job during COVID. He tried to save the house from foreclosure but was unsuccessful. In January 2022, the house sold at foreclosure for \$50,431. (Tr. p. 55.) Applicant stated that he has been in discussions with the company that currently holds the mortgage account, and they told him that the account is closed and he no longer owes the debt. However, the debt still reflects as owing on his credit report. He is trying to work something out with the lender to get the debt resolved. (Tr. p. 57.)

1.c. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$2,487. Applicant stated that this may at one time have been a valid debt, but he denied it because it is no longer reflected as owing on his credit report. (Tr. pp. 57-58.) The debt is no longer owing.

1.d. A delinquent debt is owed to a creditor for an account was charged off in the approximate amount of \$1,447. Applicant stated that this may at one time have been a valid debt, but he denied it because it is no longer reflected as owing on his credit report. (Tr. pp. 57-58.) The debt is no longer owing.

1.e. A delinquent debt is owed to a creditor for an account was placed for collection in the approximate amount of \$699. Applicant stated that this was a utility bill that he was making payments on and paid in full in November 2023. Applicant claims that he has paid the debt but does not have a receipt to show it. (Tr. p. 62.) Applicant provided a letter from the creditor showing a zero balance owed on the account on March 13, 2024. (Applicant's Post-Hearing Exhibit B.) The debt is no longer owing.

1.f. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$651. This was a credit card. Applicant claims that he has paid the debt, but does not have a receipt to show it. (Tr. p. 63.) Applicant provided a receipt from the creditor showing the account was satisfied on March 13, 2024, for \$651.80. (Applicant's Post-Hearing Exhibit A.) The debt is no longer owing.

1.g. A delinquent debt is owed to a creditor for an account that was placed for collection in the approximate amount of \$646. This was a credit card. Applicant claims that he has paid the debt but does not have a receipt to show it. (Tr. p. 64.) Applicant has provided no receipt but since he has recently improved his credit to receive a new home loan, it can be presumed that the debt has been resolved. The debt is no longer owing.

1.h. A delinquent debt is owed to a creditor was charged off in the approximate amount of \$666. Applicant stated that the debt is no longer reflected as owing on his credit report. (Answer to SOR.) The debt is no longer owing.

1.i. A delinquent debt is owed to a creditor for an account that was charged off in the approximate amount of \$588. Applicant stated that the debt is no longer reflected as owing on his credit report. (Answer to SOR.) The debt is no longer owing.

Applicant married his wife in 2002 and they separated in 2022. He and his wife got back together in April 2025. In November 2024, Applicant purchased a house with his VA home loan, where he and his wife, and 15-year-old child currently reside. Applicant believes that his finances have vastly improved. He is and has been current on his mortgage payments and on his regular monthly bills. (Tr. p. 65.) He is now living within his means and following a financial budget.

Applicant began working for his current employer in October 2023. He currently earns about \$53,800 annually. He can occasionally earn more when he works overtime. He has no money in savings. He has a retirement account or 401(k) with about \$7,500. His wife, who was in drug rehabilitation from 2022 to April 2025, has recently started working and earns between \$28,000 to \$32,000 annually. (Tr. pp. 53 and 91.)

Guideline H – Drug Involvement and Substance Misuse

Applicant joined the U.S. Army in August 2006 and served until November 2007. He explained that he was separated due to “parenthood” or an inadequate family care plan. There was no one to care for his two children, as his wife was “running around with another man from state to state”. (Tr. p. 29.) At that time Applicant received an Honorable Discharge. While he was out of the military, he was arrested two times for possession of controlled substances, and manufacture of controlled substances. (Details of the arrests are set forth below). He then re-enlisted a second time, and served from September 2008 until February 2012.) While in the military, he was disciplined a number of times for violating several military policies and procedures. This time, he was separated with a General Discharge Under Honorable Conditions due to a pattern of misconduct. (Tr. p. 31.) After his military discharge for misconduct, he was again arrested several times for possession of drugs and other infractions. (These arrests are detailed below).

In 2015, Applicant attended a three-month in-patient drug rehabilitation program at the Veteran’s Administration hospital, followed by three months of out-patient care. He eventually graduated from the Veteran’s Treatment Court Program. He contends that he has been drug free since 2015/2016. (Tr. p. 88, and Applicant’s Exhibits A.)

Applicant's Illegal Drug History

2.a., and 2.b. Applicant has a history of illegal drug use and arrests involving methamphetamine and marijuana. He stated that he used methamphetamine with varying frequency from about 2000 to about 2015, instead of 2021, that was alleged by the Government. Although the Government alleges that from about 2008 to 2012, he used methamphetamine while in a sensitive position, one requiring a security clearance. Applicant contends that he used no illegal drugs while serving in the military. From 2008 to 2015, he manufactured methamphetamine. He also used marijuana with varying frequency from about 1997 to 2002.

2.c. Applicant explained that he did not start producing or manufacturing methamphetamine until he got out of the military the first time. (Tr. p. 70.) He stated that at one point things got so bad that he was shooting an 8-ball a day (which is 3.5 grams) to feed his habit. He turned to manufacturing it to supply his need. (Tr. pp. 70-71) Every other day he would make seven grams, which was enough to get him through two days. He did not sell it. Sometimes he would share it with friends. But for the most part, he manufactured it to feed his own habit, because it was much cheaper to do it that way. (Tr. p. 72.) He described in detail how he manufactured the crystal methamphetamine, using a method and process known as the "shake and bake" or the "one-pot cook". (Tr. p. 74.)

Applicant testified that he did not use methamphetamine or any illegal drugs while he served in the military. He traded his methamphetamine use for alcohol. So, between 2007 and 2008; and 2008 and 2012, he used no illegal drugs. He stated that he was afraid of a random urinalysis that could pop positive for drugs, and he did not want to get an dishonorable discharge. He explained that he started using methamphetamine at 16 or 17 years of age. In the beginning, he would go to a friend's house for the weekend, and they would get high. He would go home on Sunday. His use of methamphetamine increased to the point where he was using it on Friday, Saturday, and Sunday, he would skip Monday or Tuesday, and then pick it back up on Wednesday. He had dropped out of high school, and was working full time. His wife also used methamphetamine. He stated that he has never used heroin. His wife started using heroin in about 2015/1016, but he never did. He tried cocaine once or twice before he joined the military. (Tr. p. 69.) Applicant admits that he has used marijuana, but that he has been clean since 2002.

2.d. Applicant testified that he used marijuana with varying frequency from about 1997 to 2002, but not during his military service. (Applicant's Answer to SOR.)

2.e. The Government withdrew this allegation. (Tr. pp. 121-122.)

Applicant stated that from September 2013 to February 2015, he was still occasionally using methamphetamine, and he would occasionally manufacture it. In

June 2014, he was arrested and charged with Felony Manufacturing of a Controlled Substance Second Degree. He admits the allegation, but contends that all charges were dismissed without prejudice upon completion of the Veteran's Treatment Court that he completed on September 23, 2016.

In February 2015, Applicant was arrested and charged with Failure to Appear on Unlawful Manufacturing of a Controlled Substance. He made a decision at that time to stop using methamphetamine and to stop associating with anyone who manufactures it. He stated that he traded his use of methamphetamine for alcohol. (Answer to SOR.) However, in 2017, he was around a group of people and a close friend, who he had allowed to move in with him, and they were all getting high, and Applicant relapsed and used methamphetamine again. (Tr. pp. 92-93.) Applicant stated that he hates himself for this relapse. (Tr. p. 91.)

2.f. In February 2021, Applicant was arrested and charged with Driving Under the Influence (DUI) of a Controlled Substance, Resisting Arrest, Unlawful Possession of a Controlled Substance, and Possession of Drug Paraphernalia. During the arrest, Applicant was combative and was found to have two loaded handguns on his person, and an assault rifle in his vehicle. The police also seized a used heroin syringe and a bag of methamphetamine. Applicant was sentenced to 180 days in jail suspended, two years of unsupervised probation through April or May 2025, and was ordered to a diversion program. Applicant completed the diversion program and the DUI was resolved. The two drug charges for unlawful possession of a controlled substance and possession of drug paraphernalia are currently waiting to be adjudicated by the court. Applicant testified that he was indicted on October 2024, for the two charges for unlawful possession of a controlled substance, (a felony) and possession of drug paraphernalia, a misdemeanor. (Government Exhibit 13 and Tr. pp. 109-112.)

Applicant explained that at the time of the arrest in 2021 for Driving Under the Influence, and Possession of Drug Paraphernalia, he and his wife were "on the outs", and he had packed up his things and put them in the back of his truck to move them to his parent's house. There were many boxes in his truck, and some of his boxes may have contained methamphetamine. He stated that a syringe containing heroin that was confiscated was his wife's. Applicant also had two loaded handguns and an assault rifle in his truck. Applicant stated that the firearms were licensed. He explained that he was on his way to work third shift, and he was really tired. He pulled over in front of a house on a street he used to live on, put his truck in park, turned his headlights off, and went to sleep. (Applicant explained that a few months earlier, he had fallen asleep at the wheel doing 60 miles an hour, and would up head butting a tree. He suffered a serious head injury, with little to no brain activity, and was med-flighted to a hospital for emergency treatment. After six hours of emergency neurosurgery, his brain activity was back.) In this instance, he decided it best to pull over, park the car, and sleep. The homeowner called the police. The police arrived, gave Applicant a verbal command through a rolled-up window, and Applicant did not respond. The police opened the door, and grabbed the Applicant. Applicant stated that he was in a deep sleep, was startled by

the officer, and attempted to defend himself. The officer arrested him, and took him to jail. Applicant took a plea deal to do one year of "Color Code" (that was completed May 2024) and two years of supervised probation, (originally scheduled to end in April or May 2025) that took care of the resisting arrest and DUI charges. The remaining charges are pending adjudication. (Tr. pp. 110-112.)

2.g. In September 2016, Applicant was arrested and charged with Failure to Appear on Unlawful Manufacturing of a Controlled Substance. Applicant denies this allegation. There is no evidence to support this allegation. Accordingly, it is found for the Applicant.

2.h. In February 2015, Applicant was arrested and charged with Failure to Appear on Unlawful Manufacturing of a Controlled Substance. Applicant admits this allegation.

2.i. In June 2014, Applicant was arrested and charged with Felony Manufacturing of a Controlled Substance Second Degree. Applicant was in the car with his wife and her brother. They were on their way to a friend's house to manufacture methamphetamine. All of the precursors to manufacture the drugs were in the car when Applicant was pulled over for not wearing a seat belt. Applicant admits the allegation, but contends that all charges were dismissed without prejudice upon completion of the Veteran's Treatment Court that he completed on September 23, 2016. (Tr. pp. 88-89).

2.j. In March 2008, Applicant was arrested and charged with Felony Unlawful Possession of a Controlled Substance, Felony Unlawful Possession of Drug Paraphernalia, and Felony Second Degree Manufacturing of a Controlled Substance. Applicant and some individuals he was running around with had been making methamphetamine the night before. They were all sitting in Applicant's car. Applicant was hallucinating real bad. He asked someone else to drive his car, and he got in the passenger's seat and went to sleep. He woke up to a County Sheriff's Deputy poking him telling him that he needed to see his hands. They were told to get out of the vehicle and it was searched. Everything needed to make methamphetamine was found in the car, including the methamphetamine made the night before, and a bag of needles. Applicant explained that in lieu of being given a twenty-five-year jail sentence, his attorney suggested that he be forced to enter the military. The Assistant District Attorney agreed. Applicant met with a recruiter and received a Delayed Entry Contract and joined the military again. Applicant admits the allegation, but contends that all charges were dismissed without prejudice. (Tr. pp. 80-85.)

2.k. In February 2008, Applicant was arrested and charged with Possession of a Controlled Substance, Driving Under the Influence of Drugs, Reckless Endangerment (x3), Following too Close, Multiple Lanes, No Proof of Insurance, No Seat Belt, and Child Restraint Violation (x2). Applicant admits the allegation but contends that all charged were dismissed without prejudice.

Guideline J - Criminal Conduct

3.a. In May 2013, Applicant was arrested pursuant to a bench warrant after violating the terms of conditional release. Applicant admits the allegation.

3.b. In December 2012, Applicant was arrested and charged with Felony Theft of Property (refrigerant cylinders). Applicant admits the allegation, but states that all charges were dismissed without prejudice in February 2013. (Government Exhibit 11.)

3.c. In October 2011, Applicant was apprehended by military authorities while in an Absent Without Leave status under Article 86 of the Uniform Code of Military Justice. Applicant denies the allegation. Military records support the allegation. (Government Exhibit 10.)

3.d. In August 2011, Applicant received Non-Judicial Punishment under Article 134 of the Uniform Code of Military Justice for the offense of Communicating a Threat to an Officer. He was sanctioned with a forfeiture of pay, extra duties, and a reduction in grade. (Government Exhibit 9.)

3.e. In April 2011, Applicant received Non-Judicial Punishment under Article 86 of the Uniform Code of Military Justice for the offense of Failure to go to Appointed Place of Duty on multiple occasions. He was sanctioned with a forfeiture of pay, extra duties, a reduction in grade, and an oral reprimand. (Applicant's Answer to SOR.)

3.f. In March 2010, Applicant received Non-Judicial Punishment under Article 128 of the Uniform Code of Military Justice for the offense of Assault Consummated By Battery against his wife. He was sanctioned with extra duties. (Government Exhibit 8.)

3.g. In September 2007, Applicant was investigated by military authorities for violation of Article 134 of the Uniform Code of Military Justice for the offense of Child Neglect. Applicant admits the allegation. (Government Exhibit 8.)

3.h. In February 2006, he was arrested and charged with Failure to Appeal/Comply/ and Pay. Applicant denies the allegation.

3.i. In August 2005, he was arrested and charged with No Seat Belt and two counts of Failure to Appear.

3.j. In September 2004, he was arrested and charged with Sales Tax Failure to pay and Fail to Pay. Applicant denies the allegation.

3.k. That information set forth in subparagraphs 2.a., through 2.k. Applicant denies subparagraphs 2.a. - 2.c., 2.e., and 2.g. He admits subparagraphs 2.d., 2.f., and 2.h. - 2.k.

Guideline E – Personal Conduct

4.a. In February 2012, Applicant was administratively separated from the U.S. Army for a pattern of misconduct. He received a General Discharge Under Honorable Conditions. This allegation is found against the Applicant.

4.b. Applicant completed a security clearance application dated September 27, 2023. (Government Exhibit 1.) In response to “Section 15, regarding his Military History, Discharge Detail, Provide the type of discharge received.” Applicant answered, Honorable, and failed to disclose that in February 2012, he received a General (Under Honorable Conditions) discharge from the U.S. Army. Applicant stated that he was misguided by his uncle who possesses a security clearance who told him to just put honorable. (Tr. p. 106.) He admits the allegation, but states that he did not intend to lie. Applicant knew or should have known to reveal the truth, the whole truth, and nothing but the truth in response to the questions on the application. He was not candid and truthful in his response to this question. This allegation is found against the Applicant.

4.c. On the same questionnaire, in response to “Section 23, Illegal Use of Drugs or Drug Activity,” he was asked, “In the last seven years, have you illegally used any drugs or controlled substance?” Applicant answered, “NO.” This was a false answer. He failed to disclose his use of methamphetamine. Although Applicant stopped using methamphetamine in 2015, he relapsed in 2017. Applicant was not candid and truthful in response to this question. This allegation is found against the Applicant.

4.d. On the same questionnaire, in response to “Section 23, Illegal Use of Drugs while Possession a Security Clearance,” he was asked, “Have you EVER illegally used or otherwise been illegally involved with a drug or controlled substance while possessing a security clearance other than previously listed.? ” Applicant answered, “NO.” He claims that he did not use any illegal drugs while he was in the military. Applicant is found to be truthful, thus, he did not falsify his response to the question. This allegation is found for the Applicant.

4.e. On the same questionnaire, in response to “Section 23, Illegal Use of Drugs While Possessing a Security Clearance,” he was asked, “In the last seven years have you been involved in the illegal purchase, manufacture, cultivation, trafficking, production, transfer, shipping, receiving, handling, or sale of any drug or controlled substance?” Applicant answered, “NO.” Again, he claims that he did not use, possess, or manufacture any illegal drugs while in the military or while possessing a security clearance. Again, Applicant is found to be truthful, thus, he did not falsify his response to the question, since he last manufactured methamphetamine in 2015/2016. This allegation is found for the Applicant.

4.f. During an interview with an investigator for the Department of Defense on October 25, 2023, Applicant denied having any other disciplinary actions while in the Army other than discussed in subparagraph 3.d above. This was not true. Applicant

failed to disclose other disciplinary actions he received in the military that include those that are set forth in subparagraphs 3.c., In October 2011, he was apprehended by military authorities while in an Absent Without Leave status under Article 86 of the Uniform Code of Military Justice; 3.e., In April 2011, he received Non-Judicial Punishment under Article 86 of the Uniform Code of Military Justice for the offense of Failure to go to Appointed Place of Duty on multiple occasions. He was sanctioned with a forfeiture of pay, extra duties, a reduction in grade, and an oral reprimand; 3.f., In May 2010, he received Non-Judicial Punishment under Article 128 of the Uniform Code of Miliary Justice for the offense of Assault Consummated By Battery against his wife. He was sanctioned with extra duties; and 3.g., in September 2007, he was investigated by military authorities for violation of Article 134 of the Uniform Code of Military Justice for the offense of Child Neglect. Applicant stated that he forgot about these incidents. There are too many incidents here for the Applicant to have forgotten about them. Applicant is expected to know what disciplinary actions he received in the military. If he did not know he should have said so. He was deliberately not truthful with the investigator during his interview, and he should have revealed them. This allegation is found against the Applicant.

4.g. The Government withdrew this allegation. (Tr. p. 120.)

4.h. The Government withdrew this allegation (Tr. p. 121.)

Policies

When evaluating an applicant's suitability for national security eligibility, 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 are to be used 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, administrative judges apply the guidelines in conjunction with the factors listed in AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 national security eligibility will be resolved in favor of the 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 the applicant or proven by Department Counsel.” The applicant has the ultimate burden of persuasion to obtain a favorable clearance 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 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 EO 10865 provides that adverse 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 F - Financial Considerations

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure 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 or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant incurred delinquent debt that he could not afford to pay. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under Financial Considerations are potentially applicable under AG ¶ 20.

- (a) the behavior happened so long ago, was so infrequent or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g. loss of employment, a business downturn, unexpected medical emergency, a death, divorce, or separation, clear victimization by predatory lending practices, or identity theft), and the individual acted responsibly under the circumstances;
- (c) the individual has received or is receiving financial counseling for the problem from a legitimate and credible source, such as a non-profit credit counseling service, and there are clear indications that the problem is being resolved or is under control;
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant has done his best to resolve his delinquent debts to show that he can and will be financially responsible in the future. He has received financial counseling and is following a monthly budget to resolve his debts; he has provided several receipts for payments made; he has vastly improved his credit standing to recently qualify to purchase a house; and he had made a good faith effort to repay his creditors or contacting them about his debts to properly resolve them. He is meeting all of his financial obligations without difficulty. He is demonstrating that he is financially responsible. This guideline is found for Applicant.

Guideline H: Drug Involvement and Substance Misuse

The security concern relating to the guideline for Drug Involvement and Substance Misuse is set forth at AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. *Controlled substance* means any "controlled substance" as defined in 21 U.S.C. 802. *Substance misuse* is the generic term adopted in this guideline to describe any of the behaviors listed above.

The guideline at AG ¶ 25 contains two conditions that could raise a security concern and may be disqualifying:

- (a) any substance misuse (see above definition); and
- (c) illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

The guideline at AG ¶ 26 contains conditions that could mitigate security concerns:

- (a) the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment; and
- (b) the individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) disassociation from drug-using associates and contacts;
 - (2) changing or avoiding the environment where drugs were used; and
 - (3) providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that

any future involvement or misuse is grounds for revocation of national security eligibility.

None of the mitigating conditions are applicable. Applicant's history of illegal drug involvement is extensive and serious. Applicant's most recent drug-related arrest occurred in 2021, just four years ago. The two charges for unlawful possession of a controlled substance, and possession of drug paraphernalia, have not yet been adjudicated by the court and are still pending. Applicant was at one time was so involved in drugs that he was manufacturing methamphetamine. His extensive drug involvement shows a complete disregard for the law and criminal behavior that cannot be excused. Guideline H is found against the Applicant.

Guideline J, Criminal Conduct

The security concern relating to the guideline for Criminal Conduct is set out in AG ¶ 30:

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 ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgement, reliability, or trustworthiness; and

(b) evidence (including, but not limited to, a credible allegation, an admission, and matter of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted or convicted; and

(e) discharge or dismissal from the Armed Forces for reasons less than "Honorable."

The guideline at AG ¶ 32 contains conditions that could mitigate security concerns. Neither of the conditions are applicable.

(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

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant's extensive criminal record demonstrates a history of poor judgment, immaturity, and a total disregard for the law. Applicant has numerous arrests and convictions, during both his military and civilian life. His most recent arrest occurred in 2021, for Possession of a Controlled Substance (a felony), and Possession of Drug Paraphernalia (a misdemeanor), and both charges are still pending adjudication in the court. At this time, Applicant has not established that he is sufficiently reliable and trustworthy to access classified information. His many violations of the law give rise to serious concerns about his judgment, reliability and trustworthiness, both because of the nature of the offenses, and the circumstances surrounding the offenses. The before-mentioned disqualifying conditions have been established and are not mitigated. Guideline J is found against the Applicant.

Guideline E - Personal Conduct

The security concern for the personal conduct guideline is set out in AG ¶ 15:

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.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying condition is potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and

(b) deliberately proving false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative.

AG ¶ 17 provides conditions that could mitigate security concerns. I have considered each of the mitigating conditions below:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (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 it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (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 contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) the information was unsubstantiated or from a source of questionable reliability; and
- (g) association with persons involved in criminal activities was unwitting, 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 was misleading and not completely truthful on his security clearance application when he stated that he received an honorable discharge from the military. In 2012, his most recent discharge from the military, Applicant was administratively separated from the U.S. Army for a pattern of misconduct. He received a General Discharge Under Honorable conditions. Applicant was also not truthful on his security clearance application when he stated that he had not used any illegal drugs in the last seven years, when in fact he had used methamphetamine in 2017, during a relapsed. He was also not truthful during his interview with the investigator, when he denied receiving any other military disciplinary actions against him, except one in 2011, for the offense of communicating a threat to an officer; when in fact, Applicant was disciplined several other times for various offenses that are outlined above, that ultimately resulted in his administrative discharge from the military for misconduct. Applicant deliberately provided false information to the Government, to conceal material information from the Government on his security clearance application and during an interview with an investigator for the Department of Defense. This conduct is not excusable. Guideline E is found against the Applicant.

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(d):

- (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 is making a conscientious effort to improve himself and clean up his lifestyle. He has stopped using and manufacturing methamphetamines. He has addressed his financial delinquencies and they are no longer a security concern. However, despite this progress, his two drug charges for Possession of a Controlled Substance, a felony, and Possession of Paraphernalia, a misdemeanor, from his 2021 arrest, are still pending, and have not yet been adjudicated by the court. In addition, Applicant was not honest and truthful in response to questions on his security clearance application, and he was not truthful with the investigator during his interview about the disciplinary actions he received in the military. Applicant failed to provide sufficient evidence to mitigate these concerns. Accordingly, I conclude Applicant has not mitigated the Drug Involvement and Substance Misuse security concern; the Criminal Conduct security concern; and the Personal Conduct security concern. He has mitigated the Financial Considerations security concern.

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 F:

FOR APPLICANT

Subparagraphs 1.a. through 1.i.

For Applicant

Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 2.a. through 2.d.	Against Applicant
Subparagraph 2.e.	Withdrawn by Government
Subparagraphs 2.f.	Against Applicant
Subparagraph 2.g.	For Applicant
Subparagraphs 2.h. through 2.k.	Against Applicant
Paragraph 3, Guideline J:	AGAINST APPLICANT
Subparagraphs 3.a. through 3.j.	Against Applicant
Paragraph 4, Guideline H:	AGAINST APPLICANT
Subparagraphs 4.a. through 4.c.	Against Applicant
Subparagraphs 4.d. and 4.e.	For Applicant
Subparagraph 4.f.	Against Applicant
Subparagraphs 4.g. and 4.h.	Withdrawn by Government

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 or continue Applicant's national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge