



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



In the matter of:

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ISCR Case No. 24-00973

Applicant for Security Clearance )

**Appearances**

For Government: Andre M. Gregorian, Esq., Department Counsel

For Applicant: *Pro se*

06/03/2025

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**Decision**

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Curry, Marc E., Administrative Judge:

Although Applicant has not engaged in substance misuse for slightly more than two years, it is too soon to conclude that he has mitigated the security concern, given the length of time he abused drugs previously and the frequency of his drug use. Clearance is denied.

**Statement of the Case**

On September 17, 2024, the Defense Counterintelligence and Security Agency Consolidated Adjudications Services (DCSA CAS) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines H, Drug Involvement and Substance Misuse, explaining why it was unable to find it clearly consistent with the national security to grant security clearance eligibility. The DCSA CAS took the action under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the National Adjudicative Guidelines (AG) effective for any adjudication made on or after June 8, 2017. On October 10, 2024, Applicant answered the SOR, admitting the allegations and requesting a decision based on the evidence on file rather than a hearing. On October 31, 2024, Department Counsel prepared a File of

Relevant Material (FORM), setting forth the Government's arguments against Applicant's security clearance worthiness. The FORM contains four attachments, identified as Items 1 through 4.

Applicant received a copy of the FORM on December 31, 2024. He was given 30 days to file a response. He did not file a response whereupon the case was assigned to me on February 14, 2025. After receiving the FORM, I admitted Items 1 through 4 into the record.

### **Findings of Fact**

Applicant is a 28-year-old single man with no children. He lives with his fiancé. After graduating from high school *magna cum laude*, he earned a bachelor's degree in aerospace/mechanical engineering in 2020, and a master's degree in mechanical engineering in August 2023. (Item 1 at 31) Since 2021, he has worked for a defense contractor as an engineering systems modeling test engineer.

Applicant smoked marijuana five to seven days per week from 2015 to 2020. (Item 2 at 6) During this period, he would purchase between one and 3.5 grams of marijuana per week. (Item 1 at 36) His use decreased in 2021 after he began working at his current job. He stopped using it entirely in March 2023.

Over the years, Applicant has also abused various other illegal drugs, including cocaine on four or five occasions between July 2019 and December 2019, psychedelic mushrooms once or twice per year from April 2016 to March 2023, and LSD three times between 2016 and 2020. (Item 1 at 35-36)

In addition to illegal drugs, Applicant has misused prescription drugs over the years, including Adderall and Vyvanse with various frequencies between 2015 and 2019, and codeine once in 2016 and once in 2019. He took the Adderall and the Vyvanse to help him complete classroom assignments. (Item 1 at 38)

Applicant has not used illegal drugs or misused any prescription drugs since his employer told him that he would need to apply for a security clearance. He does not intend on resuming illegal drug use because he is now a more mature person, whose relationship with his girlfriend has given him a sense of purpose. In addition, all his friends with whom he previously used illegal drugs have quit using them. (Item 1 at 35)

### **Policies**

The U.S. Supreme Court has recognized the substantial discretion the Executive Branch has in regulating access to information pertaining to national security,

emphasizing that “no one has a ‘right’ to a security clearance.” *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). When evaluating an applicant’s suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are required to 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 overall adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), the entire process is a conscientious scrutiny 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 ¶ 1(d) 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. 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 to obtain a favorable security decision.

Under the whole-person concept, the administrative judge must consider the totality of an applicant’s conduct and all relevant circumstances in light of the nine adjudicative process factors in AG ¶ 2(d). They are as follows:

- (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.

## **Analysis**

### **Guideline H: Drug Involvement and Substance Misuse**

Under this Guideline, “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.” (AG ¶ 24)

Applicant’s history of drug involvement and substance misuse triggers the application of AG ¶ 25(a) and AG ¶ 25(c), “illegal possession of a controlled substance including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia.

The following mitigating conditions under AG ¶ 26 are potentially applicable:

(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; 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;  
and

(2) changing or avoiding the environment where drugs were  
used . . .

Applicant has not used cocaine or LSD in nearly six years. Similarly, he has not misused any prescription medications in nearly six years. Consequently, the previous abuse of these drugs is mitigated by AG ¶ 26(a) and I resolve the subparagraphs alleging their use in his favor.

Applicant’s friends no longer use illegal drugs and Applicant has settled down, focusing on his relationship with his fiancé and his job. Based on these facts, I conclude AG ¶ 26(b)(1) and AG ¶ 26(b)(2) apply. Conversely, Applicant abused marijuana and psychedelic mushrooms as recently as March 2023. Moreover, between 2015 and 2020, he was using marijuana nearly every day. Under these circumstances AG ¶ 26(a) does not apply to his use of marijuana and psychedelic mushrooms, and the recency and frequency of his use of these drugs outweighs the positive security inference generated by the applicability of AG ¶¶ 26(b)(1) and 26(b)(2). Under these circumstances, Applicant has failed to mitigate the drug involvement and substance misuse security concerns.

## **Whole-Person Concept**

I considered the whole-person concept factors in my analysis of the disqualifying and mitigating conditions, discussed above, and they do not warrant a favorable conclusion.

## **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**

**Subparagraphs 1.a – 1.b:** **Against Applicant**

**Subparagraphs 1.c-1.f:** For Applicant

## Conclusion

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

Marc E. Curry  
Administrative Judge