



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



In the matter of:

)  
)  
)  
)

ISCR Case No. 23-00129

Applicant for Security Clearance )

**Appearances**

For Government: Erin P. Thompson, Esq., Department Counsel

For Applicant: *Pro se*

08/04/2025

---

**Decision**

---

PRICE, Eric C., Administrative Judge:

Applicant mitigated Guideline I (Psychological Conditions) and Guideline B (Foreign Influence) security concerns, but he has not mitigated Guideline E (Personal Conduct) security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

Applicant submitted a security clearance application on May 6, 2020. On February 6, 2023, the Department of Defense (DoD) sent him a Statement of Reasons (SOR) alleging security concerns under Guidelines I, B, and E. The DoD acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016).

Applicant submitted an undated answer to the SOR (Answer) and requested a hearing before an administrative judge. The case was assigned to me on January 23, 2024. On April 8, 2024, the Defense Office of Hearings and Appeals (DOHA) notified

Applicant that the hearing was scheduled to be conducted by video teleconference on May 1, 2024. I convened the hearing as scheduled.

Government Exhibit (GE) 1 through GE 3 were admitted in evidence without objection. Applicant objected to GE 4 and GE 5. I overruled his objection to GE 4, and it was admitted into evidence. I sustained his objection to GE 5, an unauthenticated summary of personal subject interviews, and GE 5 was not admitted into evidence. (Transcript (Tr.) 23-36) Applicant and his spouse testified, and he submitted Applicant Exhibit (AE) A through AE K, which were admitted without objection. I kept the record open to enable the parties to submit additional documentary evidence. Applicant timely submitted AE L which was admitted without objection. DOHA received the transcript on May 13, 2024, and the record closed on May 23, 2024.

### **Administrative Notice**

At Department Counsel's request and without objection from Applicant, I have taken administrative notice of: (1) an extract of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), pertaining to Major Depressive Disorder, and (2) of relevant facts about Israel and the Palestinian Territories, dated May 10, 2023 and May 7, 2024. (Hearing Exhibit (HE) II-III, HE V; Tr. 15-18, 24-26) I considered Applicant's and Department Counsel's comments about Department Counsel's revised Request for Administrative Notice regarding Israel and the Palestinian Territories dated May, 7, 2024. (HE V-VI) The facts administratively noticed are set out below in my findings of fact.

### **Findings of Fact**

In Applicant's answer to the SOR, he admitted all SOR allegations with explanations. His admissions are incorporated in my findings of fact.

Applicant is a 32-year-old analyst employed by a defense contractor since October 2021 and he provides direct support to a major military command. He served on active duty in the U.S. Army from April 2014 to October 2021 as a signals intelligence analyst and was honorably discharged. He has had a security clearance since 2014. (GE 1; Tr. 102-103, 130-131)

Applicant was married from December 2014 to October 2015, and that marriage ended in divorce. He married his current spouse in October 2017 and has one child, age six. His spouse is a citizen of Israel, a lawful permanent resident in the United States, and plans to apply for U.S. citizenship. He earned an associate degree in 2013, a bachelor's degree in 2019 and a master's degree in cyber security in 2021. (Tr. 46-47, 61-62)

### **Psychological Conditions**

SOR ¶ 1.a alleges Applicant was sent to intensive out-patient mental health treatment from October to December 2019, where he was diagnosed with Major Depressive Disorder, moderate, recurrent without psychosis, and that his repugnant and increasingly toxic behavior in the treatment program resulted in the staff removing him

from the program for a day before he was discharged. SOR ¶ 1.b alleges that in October 2022, he was evaluated by a licensed psychologist who determined that he “met criteria for Major Depressive Disorder, recurrent, unspecified and unspecified personality disorder[;] expressed significant concerns regarding [his] stability, and given that [he] was not in treatment and denied any mental health conditions, stated [his] prognosis was poor[; and] concluded his condition could lead to inappropriate behavior, poor-decision-making and inability to follow rules and regulations.” (SOR; GE 2 at 4, 7-8)

Applicant admitted both allegations. He volunteered to attend the out-patient treatment program after consulting with a military psychiatrist. He apologized for any toxic behavior he displayed and attributed it to marital issues, frustration with constraints on his ability to perform his primary duties, frustration with some program participants, and to the eight medications he was prescribed during the program. (Answer at 1, 5) He has been diagnosed with Major Depressive Disorder and has received mental health treatment through the military or at a Department of Veterans Affairs (VA) hospital since at least 2019. He said he is in a much better mental space, displays appropriate behavior, sound decision-making and scrupulously follows rules and regulations. He attributes his improvement to Dr. S, his mental health provider, and to his wife’s patience. He has been taking Wellbutrin (for depression) and Adderall (for concentration) without modification. He has focused on doing things the right way including being committed to providing for his wife, daughter and to his job, and earning a 4.0 GPA. He was the distinguished scholar in a Cybersecurity master’s degree program in 2020. (Answer; GE 2-3; Tr. 80-91, 107-127, 143-149)

In her October 2022 report, Dr. B, a DoD-affiliated, licensed clinical psychologist and board-certified neuropsychologist, noted Applicant was being “followed at the VA for pharmacotherapy.” Dr. B also noted that when asked to disclose any legal history, he responded, “There should not be any.” (GE 2 at 5) He informed Dr. B that allegations of abuse and of threatening to kill the family dog reported in his May 2020 SCA “were entirely false.” Dr. B noted investigative records show he was subjected to an Article 15 disciplinary proceeding for this incident and was demoted. Applicant said his former spouse made accusations against him twice over a two-week period. He reported that he moved his things out of their home, and that she called the military police and alleged that he wanted to “hurt the dog.” “[His former spouse] said [Applicant] said some things . . . and [he] did because she had the keys to my car[,]” but he was unable to recall anything he may have said that would be of concern. He stated that she took his keys because “her car was older . . . at least that’s how I remember it.” “[H]e reported he did not reconcile with his [former] wife after the second event, although he later stated he did not want to get divorced, ‘but she did.’” Dr. B reported Applicant’s statements were evasive and contradictory throughout the interview. (GE 2 at 3-8)

Dr. B’s report identified discrepancies between Applicant’s statements and his medical records. (GE 2 at 4-8) Applicant provided plausible explanations for some of the discrepancies during the hearing. (Tr. 110-125) Dr. B noted indications of personality disorder based upon her observations of Applicant’s evasive behaviors, documented history of erratic behavior in a treatment setting, and poor behavior in social and occupational settings. She did not reach an exact diagnosis because she concluded his

psychological test results were invalid, that he was not genuine during the interview, and inconsistently reported his symptoms to prior providers. She opined “there are indications of paranoid, narcissistic, borderline, and antisocial personality traits in this individual.” (GE 2 at 7-8)

Dr. S is board certified in General Psychiatry and specializes in borderline personality disorder. He has treated Applicant since early 2022. He meets with Applicant monthly, normally via video telecommunications. They also communicate on an as-needed basis and meet in-person at least once a year. In a letter dated May 13, 2024, Dr. S described Applicant as highly stable since early 2022. He described Applicant as appropriate and polite with providers and staff, calm, cooperative and demonstrates high functioning intellect, problem solving behaviors, with a good conscience, and he follows and takes instructions very well. Applicant follows the treatment plan and “his mental health conditions are in full remission with treatment.” Dr. S noted Applicant is highly stable, and that his current mental health condition does not preclude or disqualify him from holding a security clearance. (AE B, AE L; Tr. 80-84, 126-128, 150-152)

Applicant’s spouse testified as follows. While on active duty his security clearance had been placed under scrutiny because of his relationship with her, an Israeli-citizen. His job responsibilities were curtailed to the point that he was prohibited from performing his normal duties and was relegated to performing menial tasks. During that time, he was stressed and frustrated that he could not do something more useful with his knowledge and time. After starting his current job things fell into place. They bought a home, and company and command personnel have been very welcoming to him and their family. He loves his job and is very dedicated to her and their daughter. He has received mental health treatment and has been much better the past two-to-three years. “I feel like he already got better a long time ago . . . he got to a really good place [mentally], and he’s just keeping maintenance.” (Tr. 64) She said he made his appointments with his mental health provider, that she had spoken to the provider, that Applicant has told her good things about his care, and she described him as “happy.” (Tr. 55-68; GE 3 at 63)

## **Foreign Influence**

SOR ¶ 2.a alleges that Applicant’s mother-in-law and father-in-law are citizens and residents of Israel. Applicant admitted the allegation but has minimized contact with his parents-in-law because maintaining his security clearance and employment are his top priority. His parents-in-law are divorced, and he has a very limited personal relationship with them. He has met his mother-in-law in-person only once, in 2018. He has not met his father-in-law in-person. They do not speak English and Applicant does not speak Hebrew, so their only communications have been occasional basic greetings via video chat or simple non-verbal communications. He acknowledges that his efforts to minimize communications with his parents-in-law has caused some tension in his marriage. He did not accompany his wife and daughter when they traveled to Israel to visit his mother-in-law in 2021 or 2022. He has never left the U.S. and does not have a passport. (Answer; Tr. 41-61, 138-142)

Applicant did not know the name of his parents-in-law's current employers but reported that neither was affiliated with a foreign government, military or intelligence service. His spouse is close to her mother. They video chat about three times a week. She communicates with her father a few times a year but is not close to him. His spouse has no bank accounts in Israel and owns no property there. She and her husband met and were married in the United States. She was most recently employed as a preschool teacher and does not receive financial support from her parents. She performed mandatory military service in Israel from 2005 to 2007 but has held no other government position. Her two brothers are both Israeli citizens, one lives in the U.S. and the other lives in South America. Her older brother served in the U.S. armed forces. (GE 1 at 30-33; Tr. 41-78, 138-141)

### **State of Israel and the Palestinian Territories**

I have taken administrative notice that Israel is a multiparty parliamentary democracy. The State of Israel was established in 1948. Israel has become a regional economic and military powerhouse, leveraging its prosperous high-tech sector, large defense industry, and concerns about Iran to foster partnerships around the world. The United States has a long and supportive relationship with Israel. The U.S. has performed a key role in efforts to broker peace between Israel and the Palestinian Authority and continues its efforts to advance peace including recent normalization agreements with several regional nations.

The Gaza Strip has been under de facto governing authority of the Islamic Resistance Movement (Hamas), a U.S. designated foreign-terrorist organization, since 2007. The government of Israel occupies the West Bank and maintains a security presence through the Israeli Security Forces (ISF). The Palestinian Authority exercises varying degrees of authority in restricted areas of the West Bank due to the continuing presence of the ISF. Israel is a committed counterterrorism partner of the United States.

On October 7, 2023, Hamas militants inside Gaza launched an attack into Israel. They attacked military bases, clashed with security forces mostly in southern Israel, and simultaneously infiltrated civilian communities. During the attack, militants carried out massacres and murdered civilians, including torture, rape and abuse, and kidnapped approximately 240 persons. The following day, the Israeli prime minister formally declared war on Hamas and launched a large-scale ground assault inside Gaza that continues. On March 25, 2024, the Secretary of State reiterated U.S. support for ensuring the defeat of Hamas. Israel remains focused on destroying Hamas and will likely face lingering armed resistance from Hamas for years to come.

The October 2023 Hamas attack and Israel's responding military campaign in Gaza has increased tensions throughout the region as Iranian proxies and partners conduct anti-U.S. and anti-Israeli attacks, both in support of Hamas and to pressure the United States. On January 3, 2024, the U.S. Department of State issued a travel advisory for Israel, the West Bank, and Gaza, recommending that U.S. citizens not travel to Gaza due to terrorism and armed conflict and to reconsider travel to Israel and the West Bank due to terrorism and civil unrest.

## **Personal Conduct**

SOR ¶ 3.a alleges Applicant falsified material facts on his May 2020 SCA, regarding military discipline he received under Article 15, Uniform Code of Military Justice (UCMJ). He reported an Article 15 disciplinary proceeding in 2015 but stated he was “Found not guilty after investigation, Ex-wife confessed that she lied because were [sic] going through a divorce at the time” and thereby deliberately failed to disclose that he was “found guilty of all charges, including five offenses of assault consummated by a battery, at Field Grade Article 15 on 8 December 2015 [and the punishment included] 45 days of extra duty, reduction in rank to E-2 (suspended), forfeiture of \$867 (suspended), and an oral reprimand.” (SOR; GE 4)

Applicant admitted the allegation. (Answer) He testified that “I should have put guilty, but I think I was referring to my inner will of saying that I’m not guilty of this crime [and] know inside of my heart that [the alleged crimes] did not happen. It didn’t happen.” (Tr. 104-105) He reported he was found not guilty, in part, because he “was retained in the military,” and because he thought there was no record of the Article 15 outside of the command where it was imposed. He “was told that if you receive this Article 15, you’re below E-4, it goes away . . . And because I was E-3 and I made too many assumptions, like, oh, this can’t follow me, there’s no way this is a problem.... At the time that’s what they told me. And I believed it[.]” (Tr. 156-157) He acknowledged that he lied, that it was a “huge mistake” and repeatedly apologized. (Tr. 92-95, 104-106, 153-160; GE 4)

Applicant claimed his only improper physical contact with his former spouse occurred after she took his car keys and locked herself in their bedroom. He “opened the door and she was laying on the keys, [he] had to roll her on her side to get the keys so he wouldn’t be late for [military duty and] this is the only physical altercation that [they] ever had.” (Answer at 3) He denied committing the misconduct stating that his then-21-year-old wife admitted during the Article 15 proceeding that she “had not been completely honest [about the allegations and] had provided misinformation.” He contends the officer imposing punishment felt compelled to do something but decided to retain him in the Army because of the lack of evidence and support of his chain of command. (Answer; Tr. 31-32, 84-95)

Applicant was found guilty at an Article 15 disciplinary proceeding of: (1) willfully destroying his wife’s cellphone by throwing it on the floor resulting in less than \$500 damage in violation of Article 109, UCMJ; (2) assault consummated by a battery for choking her on the neck with his hands, slapping her on the face, shoving her in the chest and back with his hands in violation of Article 128, UCMJ; (3) threatening to “injure her by breaking her face”, “threatening to kill her”, and tormenting or beating an animal in violation of Article 134, UCMJ. The misconduct allegedly occurred between February 19, 2015 and July 13, 2015. (GE 4)

In the investigations and security clearance record section of his May 2020 SCA, Applicant reported his security clearance was suspended locally in about November 2015 “while under investigation due to my ex-wife falsifying statements in our divorce, I would

later have my clearance reinstated due to being found NOT GUILTY." (GE 1 at 40). This false claim was not alleged in the SOR.

Applicant testified that he had a security clearance and some special accesses throughout his Army service. After his former spouse's allegations of misconduct, he was denied access to certain classified information essential to performance of his duties as an intelligence analyst, and he also had some accesses suspended after marrying his current spouse. He said all accesses were restored in 2021. Applicant identified his inability to perform his primary duties while in the Army and issues with his former spouse, including the Article 15 disciplinary proceeding, as sources of significant stress in his life and as contributing factors to his depression. In response to the SOR, he apologized for his actions towards his former spouse, stated they had forgiven each other and that their situation had been a catalyst for him to mature. (Answer; GE 1 at 40, GE 2 at 3-5, GE 3 at 71, GE 4; Tr. 84-97, 120-124, 132-138)

### **Character Evidence**

The chief operating officer for Applicant's company, a retired Army colonel, recruited and hired Applicant and has personally observed and received reports about his commendable professional performance and commitment to his family. He noted Applicant has received several letters of commendation from senior government leaders and partner defense contractors for his achievements. He is widely recognized for his diligence, energy, and personal commitment to supporting his DoD customers in completing their difficult mission. He is also moral, ethical, humorous, co-operative and particularly well-suited to providing the finest support in the high-pressure war-fighting headquarters where he works. He "could not speak more highly of [Applicant's] good character [and described him as] a good man who is serving his country commendably and deserves a favorable adjudication to continue service with our full trust and confidence." (AE G)

Applicant's team lead and direct supervisor, a retired Army lieutenant colonel, has worked with him since about October 2021. He states Applicant has demonstrated the "utmost professionalism," has proven himself to be a responsible person who can be entrusted with complex taskings, "has proven himself to be reliable and trustworthy," "honorable," and that he "wholeheartedly endorse[s] renewing [Applicant's] security clearance." (AE H)

The vice president of a major defense contractor praised Applicant's research and other contributions to the development of a modeling tool used by a major commander's staff to improve modeling important operations and cited it as an example of his passionate service. (AE I) A senior leader from the command lauded Applicant's research, knowledge, and experience as key factors in creating an important tool to increase staff efficiency. He also praised Applicant's initiative, problem-solving skills, dedication, and his valuable mission support. (AE J) Another senior leader praised his efforts to reintegrate a staffer returning to work after a devastating accident. (AE K)

Applicant submitted favorable annual performance reviews from 2021 through 2023. His initial performance review commented favorably on his integration into the team and his timely adaptation to providing data management support. (AE D) His 2022 and 2023 annual reviews favorably commented on his contributions to the team, positive feedback from those he supported and customer interactions, including a letter of appreciation and command coin in recognition of his performance. The reviews noted his increasing technical proficiency, positive contributions to his employer's reputation, and stated that he earned and maintained the confidence of his supervisor and DoD customers. His 2023 review included an offer to help favorably resolve adjudication of his security clearance. (AE E-F)

Applicant was honorably discharged from the Army in October 2021 as a sergeant (E-5) after completing his full term of service. He was authorized to wear awards and decorations including the Army Commendation Medal, Army Achievement Medal (two awards), Army Good Conduct Medal (two awards), National Defense Service Medal, Global War on Terrorism Service Medal, Noncommissioned Officer Professional Development Ribbon, Army Service Ribbon, Overseas Service Ribbon, and Air Assault Badge. (GE 4 at 10; Tr. 130-132, 153)

## Policies

"[N]o 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 applicants 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 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865

§ 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. “Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531.

## **Analysis**

### **Guideline I, Psychological Conditions**

The concern under this guideline is set out in AG ¶ 27:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative inference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

Applicant’s admissions and the evidence submitted at the hearing, including a psychological report, establish the following disqualifying conditions under AG ¶ 28:

(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness; and

(d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

The following mitigating conditions are potentially applicable under AG ¶ 29:

(a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;

(b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

AG ¶¶ 29(a) and 29(b) are established. Applicant voluntarily sought treatment for his mental health condition and has been seen by Dr. S, a board-certified psychiatrist at a VA hospital and a duly qualified mental health professional since at least early 2022. He has fully complied with a treatment plan including pharmacotherapy and his mental health conditions are in full remission with treatment. Dr. S noted Applicant has been highly stable since at least early 2022. His personal behavior in clinic is appropriate and polite; he has been cooperative, demonstrates very high functioning intellect and executive functioning, problem solving behaviors, and appropriately follows instruction.

AG ¶¶ 20(c), 20(d), and 20(e) are not fully established. Although Dr. S, a highly qualified mental health professional employed by an agency of the U.S. government, determined that Applicant's mental health conditions are in full remission with treatment, there is insufficient evidence to conclude Applicant has a low probability of recurrence or exacerbation, that his mental health conditions were temporary, or that there is no indication of a current problem.

## **Guideline B, Foreign Influence**

The security concern under this guideline is set out in AG ¶ 6:

Foreign contacts and interests, including, but not limited to, business, financial, and property interests, are a national security concern if they result in divided allegiance. They may also be a national security concern if they create circumstances in which the individual maybe manipulated or induced to help a foreign person, group, organization, or government in a way inconsistent with U.S. interests or otherwise made vulnerable to pressure or coercion by any foreign interest. Assessment of foreign contacts and interests should consider the country in which the foreign contact or interest is located, including, but not limited to, considerations such as whether it is known to target U.S. citizens to obtain classified or sensitive information or is associated with a risk of terrorism.

The following disqualifying conditions under AG ¶ 7 are potentially applicable:

- (a) contact, regardless of method, with a foreign family member, business or professional associate, friend, or other person who is a citizen of or resident in a foreign country if that contact creates a heightened risk of foreign exploitation, inducement, manipulation, pressure, or coercion; and
- (b) connections to a foreign person, group, government, or country that create a potential conflict of interest between the individual's obligation to protect classified or sensitive information or technology and the individual's desire to help a foreign person, group, or country by providing that information or technology.

Guideline B is not limited to countries hostile to the United States. "The United States has a compelling interest in protecting and safeguarding classified information from any person, organization, or country that is not authorized to have access to it, regardless of whether that person, organization, or country has interests inimical to those of the United States." ISCR Case No. 02-11570 at 5 (App. Bd. May 19, 2004). Nevertheless, the nature of a nation's government and its relationship with the United States are relevant in assessing the likelihood that an applicant's family members are vulnerable to government coercion. The risk of coercion, persuasion, or duress is significantly greater if the foreign country has an authoritarian government, or if a family member is associated with or dependent upon the government. An administrative judge must also consider any terrorist activity in the country at issue.

There is a rebuttable presumption that a person has ties of affection for, or obligation to, the immediate family members of their spouse. ISCR Case No. 10-09986 at 3 (App. Bd. Dec. 15, 2011). "[A]n applicant's ties of affections for his or her in-laws has less to do with the applicant's feelings towards that family, but instead contemplates the bonds of affection that the applicant's spouse holds for his or her immediate family members, which is then imputed to the applicant as a result of the marital relationship. This is true even though an applicant has minimal or no direct contact with the relatives." ISCR Case No. 19-02096 at 7 (App. Bd. Feb. 29, 2024) (citation omitted).

AG ¶ 7(a) requires substantial evidence of a “heightened risk.” The “heightened risk” required to raise one of these disqualifying conditions is a relatively low standard. “Heightened risk” denotes a risk greater than the normal risk inherent in having a family member living under a foreign government. See, e.g., ISCR Case No. 12-05839 at 4 (App. Bd. Jul. 11, 2013). The ongoing hostilities between Israel and a terrorist organization and Applicant’s spouse’s relationship with her parents are sufficient to establish the requisite “heightened risk” and potential conflict of interest. AG ¶¶ 7(a) and 7(b) apply.

The following conditions that could mitigate foreign influence security concerns under AG ¶ 8 are potentially applicable:

- (a) the nature of the relationships with foreign persons, the country in which these persons are located, or the positions or activities of those persons in that country are such that it is unlikely the individual will be placed in a position of having to choose between the interests of a foreign individual, group, organization, or government and the interests of the United States;
- (b) there is no conflict of interest, either because the individual’s sense of loyalty or obligation to the foreign person, or allegiance to the group, government, or country is so minimal, or the individual has such deep and longstanding relationships and loyalties in the United States, that the individual can be expected to resolve any conflict of interest in favor of the U.S. interests; and
- (c) contact or communication with foreign citizens is so casual or infrequent that there is little likelihood that it could create a risk of foreign influence or exploitation.

AG ¶¶ 8(a) and 8(b) are established. Israel is a friendly country. Applicant’s parents-in-law are not affiliated with the Israeli government, military or intelligence services, and a conflict of interest is unlikely. Applicant’s deep and longstanding loyalties to his career and to the United States are such that he can be expected to resolve any potential conflict of interest in favor of the United States.

AG ¶ 8(c) is not fully established. Applicant’s spouse’s contact and communication with her Israeli parents, which are imputed to him, are neither casual nor infrequent.

#### **Guideline E, Personal Conduct**

The concern under this 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 or sensitive information . . .”

Record evidence including Applicant’s admissions and military records show that he deliberately falsified his May 2020 SCA by claiming that he was found not guilty of

multiple offenses at an Article 15 disciplinary hearing in December 2015. The following disqualifying condition under AG ¶ 16 is established:

- (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.

Conduct not alleged in the SOR, including Applicant's May 2020 SCA claim that his security clearance was reinstated because he was found not guilty at an Article 15 proceeding and his evasiveness regarding his criminal history during his October 2022 interview with Dr. B, were not considered for disqualifying purposes. However, this conduct may be considered for the following five purposes: (a) to assess his credibility; (b) to evaluate his evidence of extenuation, mitigation, or changed circumstances; (c) to consider whether he has demonstrated successful rehabilitation; (d) to decide whether a particular provision of the Adjudicative Guidelines is applicable; or (e) for whole-person analysis. See ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (citations omitted).

Conditions that could mitigate the personal conduct security concerns are provided under AG ¶ 17. The following are potentially applicable:

- (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; and
- (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.

AG ¶ 17(a) is not established. There is no evidence that Applicant made a prompt effort to correct the false statement before being confronted with the evidence.

AG ¶ 17(c) is not fully established. Falsification of an SCA is not "minor" because it "strikes at the heart of the security clearance process." ISCR Case No. 09-01652 (App. Bd. Aug. 8, 2011). Although the conduct alleged occurred over five years ago, the evidence is insufficient to conclude it occurred under circumstances unlikely to recur. Applicant intentionally lied twice in his May 2020 SCA about the outcome of a December 2015 Article 15 disciplinary proceeding in part because he thought he could get away with it. In October 2022, he was evasive when discussing his legal history and other matters

with a DoD-affiliated psychologist. His behavior continues to cast doubt on his reliability, trustworthiness, and judgment.

AG ¶ 17(d) is not fully established. Applicant has acknowledged that his behavior was wrong and has taken other positive steps including seeing the same psychiatrist and complying with a treatment plan since early 2022, dedicating himself to his family, his career and to doing the right thing. He appears to have matured to the extent that his current supervisors submitted letters strongly supporting his application for a security clearance; however, the evidence is insufficient to support a conclusion that such behavior is unlikely to recur.

### **Whole-Person Concept**

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. In applying the whole-person concept, an 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. An 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.

I have incorporated my comments under Guidelines I, B, and E in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). I have considered Applicant's age, education, work history, military history, security clearance history, his spouse's testimony, and character evidence. I considered his available medical records and the October 2022 psychological report. I also considered letters from his treating psychiatrist that show Applicant has received and responded to psychiatric treatment since early 2022 and that his mental health conditions are in full remission with treatment.

Applicant was candid, sincere, and remorseful at the hearing. He was enthusiastic about the changes in his life since receiving effective psychiatric treatment and since starting his current job. It is clear from the evidence that he has dedicated himself to his family, his job, and the command and mission he supports. His work history and strong endorsements from his supervisors and other senior officials were persuasive.

However, Applicant's decision to intentionally lie about his military disciplinary history and security clearance history in May 2020, in part, because he thought he could get away with it, compromised the integrity of the security clearance process. His decision

to lie about matters that adversely impacted his military career, that he believed contributed to his depression, and that have significantly weighed on him since December 2015 raises additional concerns. His evasiveness about his legal history during an October 2022 psychological evaluation conducted for use in adjudicating his security clearance application raises concerns about the likelihood of recurrence.

“Once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance.” ISCR Case No. 09-01652 at 3 (App. Bd. Aug. 8, 2011), *citing Dorfmont v. Brown*, 913 F.2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). Applicant has not overcome that presumption.

After weighing the disqualifying and mitigating conditions under Guidelines I, B, and E, and evaluating all the evidence in the context of the whole person, I conclude Applicant mitigated the security concerns under Guidelines I and B, but he has not mitigated the security concerns under Guideline E.

### **Formal Findings**

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline I (Psychological Conditions):	FOR APPLICANT
Subparagraphs 1.a-1.b:	For Applicant
Paragraph 2, Guideline B (Foreign Influence):	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Paragraph 3, Guideline E (Personal Conduct):	AGAINST APPLICANT
Subparagraph 3.a:	Against Applicant

### **Conclusion**

I conclude that it is not clearly consistent with the national security interests of the United States to continue Applicant’s eligibility for access to classified information. Eligibility for access to classified information is denied.

Eric C. Price  
Administrative Judge