



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



In the matter of:

Appearances

For Government: Tara Karoian, Esq., Department Counsel
For Applicant: *Pro se*

08/27/2025

Decision

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the criminal conduct or financial considerations security concerns. The personal conduct security concerns were not established. He mitigated the alcohol consumption security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On November 29, 2023, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines J (criminal conduct), E (personal conduct), G (alcohol consumption), and F (financial considerations). Applicant responded to the SOR on May 15, 2024, and August 14, 2024 (Answer), and requested a hearing before an administrative judge. The case was assigned to me on April 10, 2025.

The hearing was convened as scheduled on June 17, 2025. Government Exhibits (GE) 1 through 9 were admitted in evidence without objection. Applicant testified and submitted Applicant Exhibit (AE) A, which was admitted in evidence without objection. At Applicant's request, I left the record open until July 11, 2025, for the parties to provide post-hearing evidence. The Government timely provided GE 10 and 11,

which I admitted in evidence without objection. Applicant timely provided AE B through G, which I admitted in evidence without objection. DOHA received a transcript (Tr.) of the hearing on June 24, 2025.

Findings of Fact

Applicant is a 41-year-old employee of a defense contractor. He has worked for his current employer since about September 2019. He earned a general educational development credential (GED) in 2008. He has taken some community college courses without earning a degree. He has been married since April 2025. He has no children. (Tr. 63; GE 1-3)

Applicant has an extensive history of criminal offenses. In April 2021, he was charged with driving while intoxicated in State A. He had been drinking beers (he estimated about four) with dinner. He thought about calling an Uber to drive back to the hotel where he was staying but decided against it. He claimed that he thought he was okay to drive, so he drove back to the hotel. During his authenticated April 2022 security interview (SI), when the DOD investigator asked him why he thought about calling an Uber if he thought he was okay to drive, he "did not have a good answer for that." Before arriving at the hotel, he pulled into a convenience store, parked the car and turned off his car engine. At that point, police pulled up behind his parking spot, got out of their vehicle, and approached him. Police told him they had received reports about a car matching his that was driving recklessly. They gave him a field sobriety test that he did not pass. (Tr. 40-48, 51, 61-62; Answer; GE 1-5; AE C)

Police arrested Applicant and took him to the police station, where he was administered a breathalyzer test about 30 to 45 minutes after he was initially stopped by police. While the results of his breathalyzer test are not in the record, he must have been over the legal limit given the fact that he was charged with DWI. After hiring an attorney, he pleaded guilty to a lesser offense of reckless driving. His driver's license was suspended, but he testified that he had full driving privileges at the time of the hearing. While police may not have witnessed him driving while intoxicated, given the circumstances, there is substantial evidence that he was intoxicated while driving. (Tr. 40-48, 51, 61-62; Answer; GE 1-5; AE C)

In May 2018, police charged Applicant with speeding 10 percent or more over the posted speed limit, when they reported he was driving his car 90 miles per hour (mph) in a 65-mph zone. They also charged him with having expired license plates and registration. The record is not clear as to the disposition of these charges. (Tr. 60; Answer; GE 1-5)

In August 2013, Applicant was arrested and charged with assault of family member involving bodily injury, a misdemeanor. The court ultimately dismissed the charge against him. This incident involved an altercation with a former girlfriend (Ms. A). During the altercation, Ms. A had her phone near Applicant's face, presumably to film him, and Applicant grabbed it to throw it. Ms. A held onto the phone and was knocked to the ground, skinning her knee. She called police who arrived at the scene and arrested

Applicant. He testified that it “was nothing physical on my end” and “I was just trying to get away ...” He testified that the charges were dropped because Ms. A did not want to press charges against him. (Tr. 57-60; Answer; GE 1-5)

In April 2012, Applicant was arrested in State B and charged with DWI. He pleaded guilty to this offense, was sentenced to 30 days of incarceration, and assessed court costs of \$432. He served his 30-day incarceration through a work-release program and paid his assessed costs. He had been drinking beer with friends at a sports bar, drove home, and was stopped by police at a “DWI checkpoint.” He acknowledged that he was intoxicated when he was driving. (Tr. 48-49, 51; Answer; GE 1-5).

In April or May 2012, Applicant was charged with failure to maintain financial responsibility and operation of vehicle with expired registration. Driving with an expired vehicle registration is a Class C misdemeanor in State B. He testified that he may have been charged with this infraction when he was charged with his 2012 DWI. (Tr. 57 Answer; GE 1-5)

In August 2008, Applicant was arrested in State B and charged with unauthorized use of a vehicle, a felony. He pleaded guilty to this charge. He was charged with the offense because he bought a stolen motorcycle from an acquaintance. He claimed that it was an entirely innocent mistake and, being young and inexperienced, he did not ensure he obtained the title when he paid for the motorcycle. He testified that the seller told him he (the seller) had to go to the bank to get the title and would then provide it to Applicant, but never did. He testified that he pleaded no contest to the charge. He acknowledged that he paid a little less than market value for the motorcycle, but he thought that his friend was simply doing him a favor by charging him less. He testified that he thought police did not believe him when he told his side of the story, and that may have led to him being prosecuted. He testified that he served some time in jail, did community service, and paid restitution. He also testified that he had no idea that the motorcycle was stolen until police told him it was. (Tr. 54-56, 68-70; Answer; GE 1-5).

In May 2005, police stopped Applicant while he was driving in State B and charged him with driving while license invalid. In State B, this charge is a criminal misdemeanor. The SOR inaccurately alleged that he had been charged with DWI. There is no evidence that he was intoxicated, or that he had been drinking alcohol at the time he was charged. Police pulled him over when they noticed he was driving a car with expired license plates and an expired safety inspection. After stopping him, police determined that he did not have a valid driver’s license because he had 20 outstanding traffic warrants. (Tr. 49-54; Answer; GE 1-5).

In 2003, police charged Applicant with theft by check of property valued greater than or equal to \$20 but less than \$500. He went to court and was ordered to pay restitution. He does not recall what he attempted to purchase with the bad check, or to whom he wrote it. (Tr. 56-57; Answer; GE 1-5)

Applicant claimed that he now stays on top of things like maintaining a valid driver’s license, a valid registration, and license plates. However, in December 2024,

when the car he normally drove was in the shop, he drove one of the vehicles he owned for which he did not have the legally required insurance coverage. He was stopped by police in State B and given a traffic citation. Driving without proper insurance is a Class C misdemeanor in State B. At the time of the hearing, he did not yet have a court date for this charge, but he had hired an attorney. (Tr. 61, 64-66)

Applicant testified that he does not think he has a drinking problem. He has reduced his drinking over the years and now drinks once or twice per month. His priorities have changed since meeting his wife and getting married. He does not go out with his friends nearly as often, which is the setting where he would often consume alcohol. He last consumed alcohol three or four weeks before the hearing when he had about three or four beers at home. He last drank to intoxication over a year ago. He has not undergone any alcohol-related treatment. (Tr. 62-68)

In the SOR, the Government alleged that Applicant had seven delinquent debts totaling approximately \$44,000 (SOR ¶¶ 4.a through 4.g). These delinquencies consist of the following: credit cards (SOR ¶¶ 4.a, 4.c, and 4.d); a mortgage (SOR ¶ 4.b); and secured loans (SOR ¶¶ 4.e, 4.f, and 4.g). Applicant became delinquent on these accounts because he was not prioritizing his finances, and because he was on medical leave from January 2021 to March 2021. In the Answer, he admitted the Guideline F SOR allegations. His admissions are adopted as findings of fact. The SOR allegations are established through his admissions and the Government's 2019, 2022, 2023, 2024, and 2025 credit reports. (Tr. 21-34, 72-81; Answer; GE 1-3, 6-11; AE A, D-G)

Applicant testified that he has made sufficient payments to the mortgage account in SOR ¶ 4.b to bring that account current. The Government's 2025 credit report reflects this account as being current. (Tr. 74; GE 11)

In 2021 or 2022, Applicant hired a company that he thought would help him resolve his delinquent debts. At some point, he realized that this company only disputed debts. He also noted that his credit score was not improving, so he stopped working with them. In May 2024, he hired a debt consolidation company (Company A) to help him resolve his financial delinquencies. He pays \$576 per month into an account with Company A. Company A negotiates repayment terms with his enrolled creditors. Once they have negotiated a settlement amount with an enrolled creditor, Company A uses the money that Applicant has paid into its account to make the agreed upon payments to the enrolled creditor. (Tr. 21-34, 72-81; Answer; GE 1-3, 6-11; AE A, D-G)

Applicant testified that he enrolled all the SOR debts with Company A. The documents he provided from Company A do not bear this information out. Instead, these documents from Company A show that he enrolled the creditors of the debts listed in SOR ¶¶ 4.c, 4.e, and 4.f. He also enrolled two non-SOR debts. The documents he provided show that the creditor in SOR ¶ 4.c has been receiving \$15 per month since about June 2024. The creditor in SOR ¶ 4.e has been receiving payments of \$320 per month since March 2025. A third creditor received monthly payments of \$50 from November 2024 until February 2025, and then monthly payments of \$150 per month since March 2025. It's unclear from the record whether this third creditor is an SOR

creditor or one of the non-SOR creditors. There is no documentary evidence that he is resolving or has resolved the remaining SOR debts (SOR ¶¶ 4.a, 4.d, and 4.g). (Tr. 21-34, 72-81; Answer; GE 1-3, 6-11; AE A, D-G)

Applicant claimed that he follows a written budget, but the information in his budget is not accurate because his wife recently earned a pay raise. He did not provide a copy of a budget. He testified that he has a couple of thousand dollars in a joint bank account that he shares with his wife. He provided a document showing that he does not owe federal taxes for tax years 2021, 2022, 2023, and 2024. In June 2025, as part of its continuing vetting program, the DOD issued an incident report (IR) relating to Applicant's delinquent debts. The Government's 2025 credit report was included with the IR. (Tr. 72-81; AE B)

Policies

This case is adjudicated under Executive Order (EO) 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), which became effective on June 8, 2017.

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 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 the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

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 security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of 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 J, Criminal Conduct

The security concern for criminal conduct is set out in AG ¶ 30:

Criminal activity creates doubt about an Applicant’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 is potentially applicable:

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

There is substantial evidence that Applicant has engaged in a pattern of criminal behavior with varying frequency between 2003 and 2021. One of these crimes involved a conviction for a felony, one involved physical violence, and two involved driving while intoxicated. Some of this conduct might be considered less serious, such as not complying with driving licensing and vehicle registration requirements. However, even these “lesser” offenses still display Applicant’s unwillingness to comply with laws, rules, and regulations. The above disqualifying condition is applicable.

Conditions that could mitigate criminal conduct security concerns are provided under AG ¶ 32. The following are potentially 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.

Neither of these mitigating conditions apply. While Applicant claimed that he had turned a corner with respect to violations, in December 2024, he drove a vehicle without the legally required insurance, was ticketed by police, and is awaiting his court date. While this citation may be considered a minor one, his commission of it tends to show that he still does not comply with laws, rules, and regulations. Given his extensive history of criminal violations, in conjunction with this latest one less than one year ago, I find that he has not provided sufficient evidence to show that his criminal behavior is unlikely to recur or that there is sufficient evidence of successful rehabilitation. None of the Guideline J mitigating conditions are applicable.

Guideline E, Personal Conduct

The security concern for personal conduct 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. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.

The guideline notes several conditions that could raise security concerns under AG ¶ 16. The following is potentially applicable in this case:

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
- (2) any disruptive, violent, or other inappropriate behavior;
- (3) a pattern of dishonesty or rule violations.

In the SOR, the Government cross-alleged Applicant's Guideline J criminal violations as Guideline E conduct. This disqualifying behavior is explicitly covered under Guideline J and is sufficient for an adverse determination. AG ¶ 16(d) is not established. Therefore, I find for Applicant with respect to SOR ¶ 2.a.

Guideline G, Alcohol Consumption

The security concern for alcohol consumption is set out in AG ¶ 21:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

The guideline notes several conditions that could raise security concerns under AG ¶ 22. The following is potentially applicable in this case:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual's alcohol use or whether the individual has been diagnosed with alcohol use disorder.

The Government cross-alleged the Guideline J conduct that it believed involved Applicant operating a vehicle while he was intoxicated. One of these cross-allegations included the May 2005 incident when Applicant was charged in State B with driving while license invalid. As noted herein, that traffic violation did not involve alcohol. Guideline G is not established with respect to the cross-alleged conduct from SOR ¶ 1.b. Guideline G is established by the cross-alleged conduct from SOR ¶¶ 1.e and 1.h, wherein Applicant was driving a vehicle while intoxicated and charged with DWI.

Conditions that could mitigate alcohol consumption security concerns are provided under AG ¶ 23. The following are potentially applicable:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment; and

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

It has been about four years since Applicant's last DWI. He was arrested for DWI twice, and those instances were nine years apart. He has reduced the frequency with

which he consumes alcohol and has not been intoxicated in over a year. These considerations tend to show that this behavior is unlikely to recur and that he has demonstrated a clear and established pattern of modified consumption. Both of the Guideline G mitigating factors are applicable.

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.

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

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

Applicant had seven delinquent debts totaling about \$44,000. The above disqualifying conditions are established.

Conditions that could mitigate the financial considerations security concerns are provided under AG ¶ 20. The following 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;
- (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; and
- (d) the individual initiated and is adhering to a good-faith effort to repay overdue creditors or otherwise resolve debts.

Applicant has resolved one of the SOR debts, and he is resolving two other SOR debts through payment arrangements with the assistance of Company A. He has also enrolled two non-SOR debts with Company A and is making monthly payments towards one of those. However, despite his apparent belief to the contrary, there are several SOR debts that are not enrolled with Company A, which he has not addressed (SOR ¶¶ 4.a, 4.d, and 4.g). This evidence, along with the June 2025 IR show that his financial issues are ongoing. AG ¶ 20(a) does not apply.

While Applicant's hiring of Company A is commendable, he did so months after the SOR was issued. An Applicant who acts to mitigate security concerns only after his personal concerns are threatened, such as by the potential loss of his or her security clearance, may not be motivated to follow rules and regulations when his personal interests are not affected. The timing of Applicant's hiring of Company A therefore detracts from his ability to show that he acted responsibly under the circumstances or in good faith under AG ¶¶ 20(b) and 20(d).

Given these considerations, I find that Applicant has not met his burden to show that he has mitigated the Guideline F security concerns. He appears to be on the right path, but his unresolved SOR debts and the timing of his incomplete resolution efforts show that he is not yet where he needs to be financially.

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 have incorporated my comments under Guidelines J, E, G, and F in my whole-person analysis.

I conclude Applicant did not mitigate the criminal conduct or financial considerations security concerns. The personal conduct security concerns were not established, and he mitigated the alcohol consumption security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline J:	AGAINST APPLICANT
Subparagraphs 1.a-1.h:	Against Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a-2.e:	For Applicant
Paragraph 3, Guideline G:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Paragraph 4, Guideline F:	AGAINST APPLICANT
Subparagraphs 4.a- 4.g:	Against Applicant

Conclusion

It is not clearly consistent with the national interest to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

Benjamin R. Dorsey
Administrative Judge