



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



Appearances

For Government: Rhett E. Petcher, Esq., Department Counsel
For Applicant: *Pro se*

09/15/2025

Decision

HALE, Charles C., Administrative Judge:

Applicant mitigated the security concerns under Guideline G, alcohol consumption, but he did not mitigate the security concerns under Guidelines F, financial considerations and J, criminal conduct. Eligibility for access to classified information is denied.

Statement of the Case

On December 11, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline F, Guideline J, and Guideline G. Applicant responded (Answer) to the SOR on December 18, 2024, and requested a hearing before an administrative judge. The case was assigned to me on June 5, 2025.

The hearing was convened as scheduled on August 14, 2025, and reconvened again on August 21, 2025. Government Exhibits (GE) 1 through 7 were admitted in evidence without objection. Applicant testified and submitted Applicant Exhibits (AE) A through D, which were admitted without objection. I held the record open until September 11, 2025, and received GE 8 through 10 and AE E, which were admitted without objection.

I received the transcripts (Tr.) on August 25, 2025, and August 29, 2025. The August 25th transcript will be identified as "1Tr" and the August 29th transcript will be identified as "2Tr." in the decision.

Findings of Fact

Applicant is a 24-year-old employee of a government contractor. He has worked as an hourly full-time employee for his current employer since May 2023. His hourly rate is between \$31 and \$35. He typically accrues around 16 hours of overtime after completing his regular 40 hours. He estimates he brings in \$6,000 a month. Prior to joining his sponsor, he worked as a customer service specialist from 2020 to 2023 and earned around \$2,800 monthly. From 2018 to 2020 he worked as a sales associate for a major discount store, earning about \$1,200 a month. He worked various other parttime jobs in addition to his fulltime positions including as a security guard until he was fired after the incident alleged in SOR ¶ 2.a. (1Tr. 17-33; GE1.)

Applicant is single, and his mother and another sibling live with him. His sibling is disabled and does not work and has not applied for financial benefits. His mother contributes about \$1,000 to his \$2,000 rent. When the hearing reconvened, he stated he was paying \$1,300 in rent and had a \$600 car payment. He has always lived with family, aside from the period involving SOR ¶ 1.r. (1Tr. 17-19, 52-53; Answer; GE 1; 2Tr. 50-52.)

Applicant in his Answer denied without explanation SOR ¶¶ 1.e, 1.l, 1.n, 1.p, 1.r, and 1.s and admits the other Guideline F allegations. He denied without explanation the incident that forms the Guideline J allegation and cross-alleged under Guideline G. (Answer.)

Financial

Applicant admitted SOR ¶¶ 1.a and 1.b, which are unpaid credit cards. The credit cards alleged in SOR ¶¶ 1.a and 1.b were used for daily living expenses. (Tr. 44; GE 7.) He admitted SOR ¶ 1.c, which is an unpaid personal loan, and he did not cite a particular reason for the loan. (1Tr. 45.) He admitted SOR ¶ 1.d, which arose from a service that involves day-to-day purchases. He explained that he could make "payments on smaller things in payment forms" by splitting a purchase into four payments. He did not know this debt was on his credit report until he received the SOR. (1Tr. 45-46.) Applicant admitted SOR ¶¶ 1.f through 1.k and testified that he had not paid or taken steps to resolve them. (1Tr. 61-62; 2Tr 47; GE 2-3.)

Applicant denied SOR ¶ 1.l in his Answer, which alleged he was indebted to the creditor for a judgment obtained against him in March 2024 in the approximate amount of \$640. As of the date of the SOR the judgment remained unpaid, and a garnishment was pending against him. Upon reflection he stated he "mixed up" debts, and now he admits he still owes this debt. He submitted a statement that he had been in contact with the creditor but had yet to receive an email from the creditor. (1Tr. 63-64; 2Tr. 45-46; AE E.) Applicant admitted SOR ¶ 1.m, 1.o, and 1.q and that he had not paid or taken steps to resolve these debts. (1Tr. 64, 66.) He initially denied SOR ¶ 1.p in his Answer, which

alleged he was indebted to the creditor for an account placed for collection by a bank in the approximate amount of \$444, and as of the date of SOR, the account remained delinquent. Upon reflection he stated, "yeah, no, I don't think that one's paid." (1Tr. 63-64; GE 2-3.)

Applicant denied SOR ¶ 1.e, which alleged he was indebted to creditor for an account placed for collection by a bank in the approximate amount of \$679, and as of the date of SOR, the account remained delinquent. In his initial testimony on the August 14th, he explained that he had reached out to the credit card company after the SOR was issued and resolved the debt. He explained that he did not have the resources to pay the debt prior to the SOR. He stated he had "personal things [he] had to take care of." When the hearing reconvened, he confirmed the debt remained unpaid. (1Tr. 60-61; 2Tr. 45-47; GE 2-3.)

Applicant denied SOR ¶ 1.n, which alleged he was indebted to a utility company for an account that had been placed in collection for \$403. He testified he had paid this debt and cited being a current client of the utility company. (1Tr. 64-65.) When the hearing reconvened, he again asserted he had paid off the debt and provided an August 29, 2024 payment receipt, AE A, to support his testimony. This debt is resolved. (2Tr. 7; GE 2-3.)

Applicant denied SOR ¶ 1.r, which alleged he was indebted to a realty company for a judgment that had been obtained against him in November 2022, in the approximate amount of \$2,466. The judgment arose from a writ of eviction issued against him in December 2022. He admitted he was evicted in December 2022 because he could not "pull up [his] portion of the rent." (GE 4; 1Tr. 66-67.) When the hearing reconvened, he testified to AE D, which was a ledger that showed a balance owed. Applicant had transferred money by a payment platform to his roommate to resolve some of the apartment debts. (2Tr. 58-59.) He stated, "I thought it was paid off. I was [not] made aware that it was not fully paid off until I got the ledger." Later in his testimony he stated, "I didn't even know that there was still an ongoing balance on it until I actually looked at the ledger yesterday, I believe." (2Tr. 13, 59.) He stated he had been sending regular payments to his roommate to resolve the account from 2023 to 2024. (2Tr. 59-61.) The ledger does show payments in 2023. (2Tr. 61.) He acknowledged he did not have any documents that showed there no longer was a judgment against him for over \$2,000. (2Tr. 14.) He last communicated with the co-defendant, his roommate, in February 2025, and they have since blocked each other. (2Tr. 56-57.) SOR ¶ 1.q also relates to the apartment.

Applicant denied SOR ¶ 1.s, which alleged he was indebted to a General District Court for a \$250 fine and \$271 in court costs assessed against him involving his May 2023 Driving Under the Influence of Alcohol (DUI) arrest and subsequent conviction (SOR ¶ 2.a). His fine/costs were past due as of October 2023 when he was found guilty. (GE 5-6.) He stated, "anything with my DUI has paid off." (1Tr. 67.) When the hearing reconvened, he testified to AE B, which was taken from the General District Court's website. It showed he had paid off the fine and court costs in January 2025. When asked why he had chosen to pay off the debt in January 2025 he responded, "[t]here was no honest reason why I paid it. I just paid it." (2Tr. 8; AE B.) He denied paying it off because of the December 2024 SOR. (2Tr. 9.) He explained, "[r]ealistically speaking, I've been

paying off a lot of debts, because I've been trying to get my credit together to buy a house. So, I've been trying to get some things off within the last year." (2Tr. 9.) He acknowledges he was aware the fine and court costs were due in January of 2024. (2Tr. 44.) As a result of his arrest, he did not make his security guard shift and was fired. He testified he was unaware if his former employer had a prohibition on security guards showing up to work with alcohol in their system. (Tr. 45.) The Government stipulated that Applicant's information provided vis-a-vis his payment of the fines and cost was accurate. (2Tr. 62.)

Applicant indicated he was behind one payment for a loan that was not listed on the SOR. He had missed a payment and stated he did not have the money to make the payment. He had been communicating with the creditor to make a payment. He estimated he owed \$2,500 on the loan. He had taken the loan out purchase a car. He needed the loan to make a down payment on the car. He testified he is not behind on his actual car loan. (1Tr. 68, 2Tr. 15-18.) He offered AE C to show that he had handled a debt, not alleged, responsibly. He explained, "[b]ut, also, I did want to give you the information, because it was one of my cards that was closed. And, I wanted to provide like, hey, I did pay this, one of my cards off." (2Tr. 12.)

Applicant estimated after he paid his rent and car insurance and other expenses he had between \$1,800 and \$2,500 leftover. When asked what he did with his leftover funds, he noted he had "been on a few trips." He traveled to Europe and Central America. When asked why he elected to take these trips, vice paying back his creditors, he responded, "I can't give an explanation of why." (2Tr. 21-22.)

Applicant acknowledged he had not filed his 2024 income tax returns. He cited the commercial software he used for why he had not filed his Federal or state income tax returns. He had a side job, and he stated he did not have the tax form the software wanted to file his return electronically. (2Tr. 22-25.)

DUI and Alcohol

Applicant denied the allegation that he was arrested in April 2023 and charged with driving under the influence (DUI) drugs and found guilty in October 2023 of the amended charge of DUI of alcohol. His denial was based on not having drugs in his system. (2Tr. 27-28.) The incident arose after he had been drinking at a friend's house. He testified "I just had a shot, that's it." He thought it was cognac taken from a traditional shot glass. He estimated he took the shot at around 9 p.m. He was supposed to be at work at around 11 p.m. He acknowledged he was in a hurry to get to work. He noted it was raining out and that he could not see the parked car that he struck. He acknowledged that alcohol may have contributed to him hitting the car. (GE 5-6; 2Tr. 29, 31 34-36.)

Applicant argued he "was only 0.2, 0.02 above the legal limit. In most states it's 0.10, in most states it's just not in my state." The Government offered GE 8 to show the typical effects of alcohol at the various BAC levels, as well as the applicable state statutes. (2Tr. 29; GE 8-10.) Applicant kept describing his blood alcohol as very low. He stated:

Because if you look up a BAC chart, an alcohol limit can go up to one. So,

compared to a 1.0 or a 2.0, my alcohol level was very low. You can legally drive in most states at a 0.08 and a 0.10. This in my state, it can't be above a 0.08. That's why I mentioned it, that it was low. And, they were debating in court, and they were about to drop the whole entire charge just because of how low it was. The only reason why they did not drop it was because of the fact that it was domesticated because I had hit a car. That's the only reason why. And, it was a parked vehicle. (2Tr. 30.)

Applicant was adamant that about not consuming more than one shot that night:

It was just one shot. My alcohol level was very low. It was just one shot. It was a 0.10. If you look up how much a 0.10 BAC is, it's equivalent to maybe one drink, maybe. If you look it up. It's very low. It might not even be that. (2Tr. 38.)

Applicant acknowledged he did have some champagne earlier in the day about ten hours earlier. He received his license back in May 2025. His probation ended in October 2024. He completed the required court ordered classes, maintained a breathalyzer in his car while on probation, and had his license suspended until he completed the classes. His fine and court costs were due in October 2023, and he paid them in January 2025. He now only drinks by himself at home. (2Tr. 33, 43.)

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 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;
- (c) a history of not meeting financial obligations; and
- (e) consistent spending beyond one's means or frivolous or irresponsible

spending, which may be indicated by excessive indebtedness, significant negative cash flow, a history of late payments or of non-payment, or other negative financial indicators.

Applicant's admissions and credit reports raise security concerns. AG ¶¶ 19(a), 19(c), and 19(e) are applicable.

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's poor financial situation is current and ongoing. None of these mitigating conditions are established.

Applicant's delinquent debts are recent, numerous, and were not incurred under circumstances making them unlikely to recur. The circumstances in his life have not changed such that it is unlikely to recur. Given these facts there is sufficient doubt concerning his current reliability, trustworthiness, and good judgment. AG ¶ 20(a) is not applicable to the SOR allegations.

Applicants must act responsibly given his or her circumstances and develop a reasonable plan for repayment, accompanied by concomitant conduct even if it may only provide for the payment of debts one at a time. ISCR Case No. 07-06482 at 3 (App. Bd. May 21, 2008). In this matter, Applicant has a payment history with more than one debt being resolved after the SOR was issued, which may indicate he paid his debts as a result of receipt of the SOR. He failed to resolve his fine and court costs until after he received the SOR. While he had unresolved debts he took two trips. His payment history does not constitute responsible behavior. ISCR Case No. 09-08462 at 4 (App. Bd. May 31, 2011). While he may have mitigated one his delinquent debts prior to the SOR, he has not acted responsibly under the circumstances. AG ¶¶ 20(b) and 20(d) are not applicable. His financial issues continue to cast doubt on his current reliability, trustworthiness, and good judgment. See, e.g., ISCR Case No. 07-08049 at 5 (App. Bd. Jul. 22, 2008).

Guideline J, Criminal Conduct

The concern under this guideline 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.” Applicant’s record of arrest and prosecution is sufficient to establish the following potentially disqualifying conditions under AG ¶ 31:

- (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.

The following mitigating conditions are potentially relevant under AG ¶ 32:

- (a): so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual’s reliability, trustworthiness, or good judgment; and

- (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.

Given his BAC, his claim that he only consumed one drink, and his unwillingness to accept full responsibility for his actions, as well as his late resolution of his fine and court costs, insufficient time has elapsed since Applicant’s criminal offense. The mitigating conditions are not established.

Guideline G, Alcohol Consumption

The security concern under this guideline 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.”

Applicant’s admissions and the documentary evidence establish two potentially disqualifying conditions under AG ¶ 32:

- (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; and

- (c): habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

The following mitigating conditions are potentially relevant under AG ¶ 23:

- (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;
- (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; and
- (d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant has changed his lifestyle to make the behavior unlikely to reoccur. He successfully completed his assigned classes and programs. Sufficient time has passed to establish a pattern of changed drinking behavior, and he now presents a low risk of future alcohol-related criminal offenses.

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 F, J, and G in my whole-person analysis.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the financial considerations and criminal conduct security concerns.

Formal Findings

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

Paragraph 1, Guideline F:	AGAINST APPLICANT
Subparagraphs 1.a-1.m, 1.o-1.s:	Against Applicant
Subparagraph 1.n	For Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline G:	FOR APPLICANT
Subparagraph 3.a:	For 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.

Charles C. Hale
Administrative Judge