



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



In the matter of:)
)
) ISCR Case No. 24-00847
)
Applicant for Security Clearance)

Appearances

For Government: Brittany White, Esq., Department Counsel
For Applicant: Alan Edmunds, Esq.

09/24/2025

Decision

OLMOS, Bryan J., Administrative Judge:

Applicant mitigated the security concerns raised under Guideline I (Psychological Conditions), Guideline G (Alcohol Consumption), Guideline J (Criminal Conduct) and Guideline E (Personal Conduct). Eligibility for access to classified information is granted.

Statement of the Case

On August 20, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline I, Guideline G, Guideline J and Guideline E. The DOD issued the SOR 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 Security Executive Agent Directive 4 (SEAD 4), *National Security Adjudicative Guidelines* (AG), effective June 8, 2017.

Applicant answered the SOR on September 21, 2024 (Answer) and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). The hearing convened as scheduled on June 10, 2025. Department Counsel offered into evidence Government Exhibits (GX) 1-6, and Applicant offered into evidence Applicant Exhibits (AX) A-M. All exhibits were admitted without objection. Applicant testified. The record was left open through June 20, 2025, for either party to submit additional information. Applicant timely submitted AX N, which was admitted without objection. DOHA received the hearing transcript (Tr.) on June 17, 2025.

Administrative Notice

Department Counsel requested that I take administrative notice of portions of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), pertaining to posttraumatic stress disorder (PTSD), unspecified depressive disorder, major depressive disorder and generalized anxiety disorder. I took administrative notice as requested, without objection.

Findings of Fact

The SOR alleged the following: Applicant received treatment in 2016 for an anxiety disorder, post-traumatic stress disorder (PTSD), obsessive compulsive depressive disorder and major depressive mood disorder (SOR ¶ 1.a); he was arrested for driving under the influence of alcohol (DUI) in 2021 (SOR ¶¶ 2.a, 3.a); he falsified material facts during a psychological evaluation requested by the Government in August 2023 (SOR ¶ 4.a); and the psychologist opined that Applicant met the criteria for unspecified personality disorder, with borderline, paranoid, and schizoid traits, resulting in a poor mental health prognosis (SOR ¶ 1.b). Applicant admitted SOR ¶¶ 1.a, 2.a and 3.a with clarifications. He admitted and denied SOR ¶ 1.b with clarifications and he denied SOR ¶ 4.a. His admissions are incorporated into my findings of fact. After a review of the pleadings and evidence submitted, I make the following additional findings of fact.

Applicant is 38 years old. He married in 2010 and divorced in 2021. He has one 13-year-old son from this relationship who lives with Applicant's ex-wife. Applicant maintains joint custody of his son and continues to provide financial support. Applicant earned an associate degree in 2014 and a bachelor's degree in 2021. He has held a security clearance since he enlisted in the Army National Guard and has been with his current, sponsoring employer since March 2024. For several years, his work obligations have kept him primarily overseas. (GX 1, GX 3-5; AX M; Tr. 17-20)

When Applicant was very young, his father was involved in a car accident and suffered debilitating brain injury. Applicant's mother placed Applicant and his two sisters in foster care. In 2005, at the age of 18, Applicant joined the State A Army National Guard. However, he missed several drill exercises while assisting with his father's care

and, in 2007, he received a general discharge under honorable conditions due to unsatisfactory participation. (GX 1, GX 3-5; AX M; Tr. 30-34)

In 2008, Applicant received a waiver and joined the State B Army National Guard. In 2009 through most of 2010, he deployed to Iraq. While there, he spent significant time in operational duties that placed him in unsecured and high-risk environments. On one occasion, a mortar round went off near his vehicle. He recalled being jolted and then waking up in the back of an ambulance. He also recalled occasions where his team took casualties from hostile fire. In 2013, while again serving overseas, he experienced an episode of dizziness and passed out, hitting his head on cement. A "diffuse traumatic brain injury with loss of consciousness" was noted in his medical records. After being checked by a medic, he returned to service. Over the course of his military career, he served on active duty overseas on five separate occasions in multiple countries. (GX 1, GX 3-5; AX K-M; Tr. 19-20, 31-33, 54-69)

Medical records through the Veterans Administration (VA) reflect that Applicant has been treated for physical ailments related to back pain as well as headaches and tinnitus. He was also assessed for a traumatic brain injury but did not receive that diagnosis. (GX 5-6; AX M)

In 2016, Applicant learned that a Soldier he served closely with in Iraq committed suicide. This news deeply affected Applicant and brought back "bad memories." In July 2016, he sought mental health treatment through the VA with concerns that he was depressed and "avoiding everything and everyone." He detailed that he was experiencing nightmares, flashbacks, anger and depression resulting from his military deployments and some of the events he experienced in Iraq. He was diagnosed with PTSD, major depressive disorder, obsessive-compulsive disorder and generalized anxiety disorder. (GX 3-5; AX M; Tr. 54-59)

In September 2016, Applicant began participating in therapy and discussed some of his traumatic experiences from Iraq. He acknowledged he had issues with anger, mood swings, anxiety, difficulty going to sleep, and nightmares. He admitted he was also drinking about 6-10 beers on a single occasion, at least once per week. He was assessed with a 70 percent disability rating primarily based on his PTSD diagnosis. He was briefly prescribed medication but found it was not helpful. Instead, he continued to participate in therapy for about eight months into 2017. (GX 1, GX 3-5; AX M; Tr. 35-41)

By mid-2017, VA records reflect that Applicant missed appointments and did not receive treatment within the VA. However, he deployed during this period. He recalled discussing his coping mechanisms with the VA doctor and it was determined that no additional treatment for PTSD was needed at that time. Applicant was advised to seek out further treatment if needed. (GX 4-5; AX M; Tr. 19, 33-35, 54-58)

In 2019, just a few months prior to his honorable discharge from the Army, Applicant received disciplinary action under Article 15 for disrespecting a commissioned officer following a verbal altercation. He received a reduction in rank and eventually

separated as a specialist, E-4. At the time, Applicant refused to contest the charge through court martial as he had already accepted a position with a federal contractor and “just wanted to get out.” Beyond this event, a review of Applicant’s service record reflects that, over the course of his military career, he received the Army Good Conduct Medal and twice received the Army Achievement Medal. (GX 1, GX 3-5; AX K-M; Tr. 33-38)

In 2019, Applicant was seen at the VA for back pain. He responded to an alcohol screener and listed he had reduced his alcohol consumption to 2-4 times per month and would usually consume 3-4 alcoholic drinks in a day when drinking. An alcohol screener conducted in 2020 reflected that he was drinking alcohol less than once per month and usually had 1-2 drinks when consuming alcohol. Further records from the VA reflect that, in 2020, he maintained a disability rating of 70 percent related to PTSD but there was no recommendation that he receive ongoing mental health treatment. Instead, the medical concerns focused on Applicant’s headaches and related poor sleep. In October 2020, VA providers attempted to schedule Applicant for an MRI to further assess his complaints of headaches. He did not follow up with this appointment. (GX 3-5; AX M; Tr. 58-61)

In January 2021, Applicant went out with friends and consumed five beers over the course of six hours. At the end of the night, he believed he was not intoxicated and began driving home. He recalled swerving when he dropped his phone and was pulled over, arrested and charged with DUI. He detailed that the officer did not follow procedures in assessing him for intoxication. Still, his blood alcohol concentration (BAC), taken at the police station, was .09 percent. (GX 1, GX 3-4; AX M; Tr. 24-26, 51-52)

In about May 2021, on the recommendation of his defense counsel, Applicant accepted deferred adjudication to resolve the DUI charge. He was fined, his license was suspended for four months, and he was required to take an alcohol and safety class online. He completed his court-ordered obligations, and the DUI charge was expunged from his record. Applicant stated that he has not consumed alcohol since the DUI charge. (GX 1, GX 3-5; AX B-D, AX I, AX M; Tr. 26-28, 49-50)

In August 2023, at the request of the Government, Applicant underwent a psychological evaluation with Dr. B, a licensed clinical psychologist. Applicant described that the evaluation, which occurred while he was overseas, lasted about thirty minutes. The evaluation started as a video call but suffered from technological difficulties and audio interference. They switched to audio communication once the video call failed. Still, Applicant admitted to Dr. B that he felt “depressed sometimes” and that he occasionally had nightmares. However, he expressed that he was able to manage his PTSD symptoms. (GX 4, GX 6; Tr. 22-23, 40-42)

In her September 2023 report, Dr. B noted Applicant’s military service history and past diagnosis of PTSD, major depressive disorder, obsessive-compulsive disorder and generalized anxiety disorder. She further noted that Applicant failed to attend scheduled

assessments at the VA and continued to experience nightmares and symptoms of depression. Applicant previously tried medication to assist with his symptoms but believed he was able to manage his symptoms without medical intervention. (GX 4)

Regarding Applicant's arrest and DUI charge, Dr. B stated:

The applicant reported that he was arrested for DUI in JAN 2021. He reported it was dismissed because the officer did not "follow proper procedure." He elaborated that the officer did not administer the breathalyzer test until after he was relocated to the police station. He stated that he had only consumed two beers, two hours prior to driving.

She noted that Applicant "drinks alcohol 'on occasion' and estimated this to be a 'couple beers a week' when he is in the United States." (GX 4)

During her evaluation, Dr. B found Applicant to be "seemingly evasive," noting that he "moved around the room often during the interview, even leaving the field of the camera at one point to obtain a drink." She found that he efforted to "deflect the examination inquiries" and that his presentation "was indicative of both anxious discomfort and more pervasive personality disorder characteristics." In review of his Personality Assessment Inventory (PAI), she suspected that he "may not have answered in a completely forthright manner" and that he presented "with certain patterns or combinations of features that are unusual or atypical in clinical populations but relatively common among individuals feigning mental disorder." She did not elaborate on the patterns or features that supported her opinion. She found that his profile did not suggest PTSD or a depressive disorder. Instead, she believed his responses supported a diagnosis of unspecified personality disorder, with borderline, paranoid, and schizoid traits. She also ruled out alcohol or drug use disorder. (GX 4)

Dr. B determined it was not clear whether Applicant's "symptoms of PTSD were present but have resolved, were feigned in the past, or if he was denying true ongoing symptoms of PTSD." She expressed concerns about his candor and that he could be misusing alcohol because of his previous elevated consumption levels. She concluded:

This individual's prognosis is poor due to his denial of personal responsibility for past problematic behaviors on multiple occasions, evident lack of candor, and disinterest in interventions for any of the documented/self-reported mental health conditions he has endorsed in the past (and for which he still collects compensation). His personality style suggests that he is prone to irritability, moodiness, and aggression that could impact his conduct in social and workplace situations. (GX 4)

In response to Dr. B's report, Applicant sought his own psychological evaluation and was seen by Dr. K, a licensed psychologist, in January 2025. Dr. K reviewed Dr. B's report as well as Applicant's responses to the Minnesota Multiphasic Personality Inventory-3 (MMPI-3) and the Alcohol Use Disorders Identification Test (AUDIT).

Following her video interview of Applicant, Dr. K noted Applicant's challenging childhood and his military service history. She detailed the events leading up to his Article 15 in 2019, as well as the DUI charge in 2021, and noted he had taken responsibility for his actions. (AX M-N)

Regarding his PTSD symptoms, Applicant detailed to Dr. K that he had initially received medication and attended counseling through the VA. However, he "stopped attending counseling because he was feeling better, had developed adequate coping skills and was going to be working overseas." He admitted that he "continues to experience mild symptoms of PTSD" but can self-manage with behavioral tools or exercise. He denied any history of mania, suicidal ideation, or other mental health problems. Dr. K opined that Applicant was "introverted, but not Schizoid." (AX M)

Regarding his 2021 DUI arrest and use of alcohol, Dr. K noted that Applicant told Dr. B he had "a few (not two)" beers the night he was arrested. He described that his attorney advised him to accept deferred adjudication even though the police officer did not follow procedures during the arrest. Applicant stated he had not consumed alcohol since his DUI arrest and did not have an ongoing need for alcohol. Additionally, alcohol was rarely available where he worked overseas. Dr. K noted that Applicant's AUDIT score for risk of excessive drinking and alcohol use disorder was zero, which suggested very low risk. (AX M)

In discussing Dr. B's evaluation, Applicant informed Dr. K that some of the concerns about his evasiveness raised by Dr. B may have related to his refusal to identify his exact location overseas based on operational security. He also believed that Dr. B "misheard him at times" or missed the context of his explanations. (AX M)

Dr. K opined that Applicant met the criteria for "some symptoms of PTSD but [did] not meet criteria for a full diagnosis." She further noted that "he seems to experience manageable triggers for PTSD that he can easily cope with. He appears to have good judgment, insight, and is well-organized." She opined that he continued to experience mild anxiety, which was reasonable given his distance from his son and daily stressors, but there was no evidence of an anxiety disorder. He also did not meet the criteria for any personality disorder nor the criteria for a substance abuse disorder. She did not find any concerns relating to his reliability, judgment and trustworthiness. (AX M)

At hearing, Applicant admitted he maintains a disability rating primarily based on his PTSD diagnosis. He recalled attending therapy for several months after his diagnosis in 2016 and learned self-coping skills to manage his PTSD symptoms. These skills include exercise, reading and using focusing techniques to relax. (Tr. 35-41, 58-60)

Regarding his alcohol consumption, Applicant confirmed that in 2016, there were times when he drank 6-10 beers in an evening. However, his consumption decreased in the years that followed. On the night of his DUI arrest, Applicant met up with friends and

had more drinks than normal. The arrest prompted him to stop all alcohol consumption. He expressed that he had no difficulty abstaining from alcohol after the DUI arrest as he was not dependent on alcohol and spent significant time working overseas in locations where alcohol was not available. (Tr. 24-26, 46-49, 62-65)

In recalling his evaluation by Dr. B, Applicant stated he was in a deployed position at the time of the interview and that the connection kept "dropping in and out." He believed this led to several "misunderstandings." He denied that he was evasive. He denied telling Dr. B that his DUI case was dismissed because the state trooper failed to follow procedure and that he had only consumed two beers in two hours. Instead, he told her he had "a few" beers and described that his attorney informed him that, "because of the actions of the trooper and because of this being [his] first offense, it would be better to do the non-adjudication." (Tr. 22-24, 35-44, 66-68)

Applicant admitted he told Dr. B that he would drink alcohol when he was in the United States but, at the time of the interview, he had not been in the United States since just after the DUI charge was resolved. Since 2021, he has been in the United States at the beginning of 2023 for a week and in 2024 for a brief orientation relating to his current work. He did not consume alcohol on either occasion. (Tr. 40-44, 65-67)

In contrast, Applicant recalled less technical difficulties during his interview with Dr. K and felt he was better able to relay his history of military service and treatment. Although he does not see a VA doctor currently for PTSD treatment, he is aware that there is a mental health clinic and a medical facility at his location should he ever feel the need to utilize those resources. (Tr. 64-68)

Applicant submitted four character-reference letters from individuals who highlighted his professionalism, dedication and strong work ethic as well as his ability to work in a team environment. Chief Warrant Officer S observed Applicant in a garrison environment and two overseas combat rotations. He opined that Applicant was well disciplined and accountable. Mr. F worked with Applicant overseas and stated that Applicant was able to maintain focus under extreme pressure in a conflict zone. They all believed that Applicant possessed the judgment, reliability and trustworthiness necessary to hold a security clearance. (AX E-G, AX J)

Policies

It is well established that no one has a right to a security clearance. As the Supreme Court held in *Department of the Navy v. Egan*, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." 484 U.S. 518, 531 (1988)

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially

disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied 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(a), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have not drawn inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel and 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.

Analysis

Guideline I, Psychological Conditions

The security concern relating to psychological conditions 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.

I have considered the disqualifying conditions under AG ¶ 28 and the following are potentially applicable:

- (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (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.

In 2016, Applicant learned that a Soldier, who he served with in Iraq, committed suicide. This prompted Applicant to seek mental health treatment through the VA. He was initially diagnosed with PTSD, major depressive disorder, obsessive-compulsive disorder and generalized anxiety disorder. These diagnoses quickly narrowed to PTSD and he received a 70 percent disability rating. He participated in therapy into 2017. He then terminated that treatment because he believed it was no longer beneficial, and he was preparing to deploy. Since 2017, Applicant has not received active treatment for his PTSD.

Applicant's Article 15 in 2019 for disrespecting a commissioned officer and his 2021 DUI arrest are notable in relation to his mental health. He acknowledged that both events reflected moments of poor judgment. Security concerns under AG ¶ 28(a) are established.

Following her August 2023 evaluation of Applicant, Dr. B opined that either his PTSD diagnosis had resolved or that he was feigning aspects of his symptoms. She concluded that his presentation supported a diagnosis of unspecified personality disorder, with borderline, paranoid, and schizoid traits. She found that his denial of personal responsibility for past problematic behaviors and disinterest in interventions for any of his documented mental health conditions supported a "poor" mental health prognosis. Security concerns under AG ¶ 28(b) are established.

Dr. B further stated that Applicant failed to attend multiple sessions at the VA. Applicant stated that he stopped treating at the VA in 2017 because he deployed. He recalled discussing his coping mechanisms with the VA doctor and it was determined that no additional treatment for PTSD was needed at that time. In 2020, he did not follow up on an MRI to further assess his complaints of headaches. There is no indicator within the VA records that Applicant was requested to maintain treatment for PTSD. While undergoing further diagnostics may assist Applicant with his complaints of headaches, his failure to do so is insufficient to establish security concerns under AG ¶ 28(d).

I have considered the mitigating conditions under AG ¶ 29 and the following are potentially applicable:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan; and
- (d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability.

The 2016 suicide of his fellow Soldier caused Applicant significant mental and emotional stress. He sought mental health treatment through the VA and participated in therapy into 2017. Over time, he learned to be mindful of his symptoms and use behavioral tools to maintain his mental health.

While Applicant's Article 15 in 2019 and his 2021 DUI arrest raise concerns over his ability to control his emotions and exercise good judgment, these events are now several years in his past. Since 2021, Applicant has abstained from alcohol and avoided any further criminal conduct. Character-reference letters concur that he has performed his work obligations with professionalism and under challenging circumstances.

Regarding Applicant's current mental health, the opinions of Dr. B and Dr. K are divergent. Both are duly qualified mental health professionals. See ISCR Case No. 20-01838 (App. Bd. Dec. 29, 2022). A Judge is neither compelled to accept a Government psychologist's diagnosis of an applicant nor bound by any expert's testimony or report. Rather, the Judge must consider the record evidence as a whole in deciding what weight to give conflicting expert opinions. See ISCR Case No. 19-00151 (App. Bd. Dec. 10, 2019). Additionally, an applicant's cooperation with one psychiatric evaluator over another may be considered self-serving. See ISCR Casse No. 18-02085 (App. Bd. Jan. 3, 2020).

In review of the evaluations by Dr. B and Dr. K, I find Dr. K's report to be more accurate to Applicant's current mental state. Both psychologists agree that Applicant's PTSD symptoms do not impair his mental health. However, Dr. B's opinion that Applicant exhibited unspecified personality disorder, with borderline, paranoid, and

schizoid traits is not supported by the VA records or reflected elsewhere in the record. As further discussed under Guideline E below, her opinion that Applicant feigned his PTSD symptoms and lacked candor is equally not supported by the record or indicated by Applicant's credible testimony at hearing.

Notably, Applicant admits he continues to experience symptoms relating to PTSD but believes he is able to maintain his mental health without ongoing treatment. Dr. K identified these as "manageable triggers." She noted that he continued to experience mild anxiety, which was reasonable given his distance from his son and daily stressors. She concluded that, while he was introverted, this did not equate to being Schizoid and that he did not meet the criteria for any personality disorder. Additionally, he is aware of mental health services at his location should those services be needed.

Since 2016, Applicant has managed his mental health symptoms and no longer shows any indications of emotional instability. Dr. K noted that he can manage his stressors and there is a low probability of recurrence or exacerbation of his mental health concerns. Mitigation under AG ¶¶ 29(a) and 29(d) is applicable.

Guideline G, Alcohol Consumption

The security concern relating to 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.

I have considered the disqualifying conditions under AG ¶ 22 and the following are potentially applicable:

- (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.

Medical records reflect that in 2016, there were times where Applicant consumed alcohol in excess. This occurred while he was experiencing nightmares, flashbacks, anger and depression leading to his diagnosis of PTSD, major depressive disorder, obsessive-compulsive disorder and generalized anxiety disorder.

Although he professed to have reduced his alcohol consumption in the subsequent years, he admitted to having about five beers in January 2021 and

attempting to drive home prior to being arrested and charged with DUI. Dr. B also expressed concerns that he could be misusing alcohol. The security concerns under AG ¶¶ 22(a) and 22(c) are established.

I have considered the mitigating conditions under AG ¶ 23 and 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.

Applicant was drinking in excess in 2016. Although alcohol screeners in 2019 and 2020 reflect that his alcohol consumption decreased over time, he proceeded to have five beers in January 2021 before being arrested and charged with DUI. He testified that this level of consumption was abnormal, and he has not consumed alcohol since his DUI arrest.

Applicant detailed that he was not dependent on alcohol and often worked overseas in environments where alcohol was unavailable. He denied any alcohol cravings and, beyond Dr. B's opinion that he may be misusing alcohol based on his prior history, his VA records and Dr. K's assessment do not reflect any concerns over alcohol use.

Over four years have passed since Applicant's DUI arrest. He has independently chosen to abstain from alcohol. His past alcohol consumption does not cast doubt on his reliability, trustworthiness or judgment. Mitigation under AG ¶¶ 23(a) and 23(b) is applicable.

Guideline J, Criminal Conduct

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

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

I have considered the disqualifying conditions under AG ¶ 31 and 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.

In January 2021, Applicant was arrested and charged with DUI. He admitted he exercised poor judgment in drinking five beers before choosing to drive home. Security concerns under AG ¶ 31(b) are established.

I have considered the mitigating conditions under AG ¶ 32 and 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.

Following his January 2021 DUI charge, Applicant accepted deferred adjudication and completed all court-ordered obligations. The DUI charge was expunged from his record.

Beyond the January 2021 DUI charge, Applicant has no other criminal history. In the four and a half years since his arrest, he chose to abstain from further alcohol consumption and has not participated in any criminal activity. Applicant's decision to drive after drinking was an exercise in poor judgment. However, it does not reflect a pattern of questionable conduct and no longer casts doubt on his reliability, trustworthiness and judgment. Mitigation under AG ¶¶ 32(a) and 32(d) is applicable.

Guideline E, Personal Conduct

The security concern relating to 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 adjudicative guideline notes several conditions that could raise security concerns under AG ¶ 16. The following is potentially applicable:

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

SOR ¶ 4.a alleged that Applicant falsified material facts during his evaluation by Dr. B in August 2023 by stating that he only consumed two beers prior to the DUI arrest and that the case was dismissed because the state trooper failed to follow proper procedures. Applicant denied this allegation, asserting that he told Dr. B that he had “a few beers” and that she misunderstood his statements. He further claimed that the evaluation, conducted by video, was plagued by technical difficulties. When a falsification allegation is controverted, as in this case, the Government has the burden of proving it. An omission, standing alone, does not prove falsification. An administrative judge must consider the record evidence as a whole to determine an applicant’s state of mind at the time of the omission. See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)

The difference between “two beers” and “a few beers” is too minimal to find an intentional falsification of a material fact. Additionally, Applicant’s complaint that the state trooper failed to follow procedures during the 2021 DUI arrest is not unique to Dr. B’s evaluation nor indicative of an intentional falsification. In review of the record, Applicant voluntarily disclosed his alcohol use in 2016 to his VA providers and in two subsequent alcohol screeners. He discussed his alcohol use with both Dr. B and Dr. K and provided details of that use during his testimony. He acknowledged he made a poor decision leading up to his January 2021 DUI charge and detailed changes he made to not repeat that behavior.

Further underlying this SOR allegation are multiple references within Dr. B’s evaluation about Applicant’s lack of candor and that he may have feigned symptoms in support of his PTSD diagnosis. Those concerns are not otherwise reflected in the record or indicated in Applicant’s testimony. In consideration of the technical issues presented during Dr. B’s evaluation and Applicant’s candor at hearing, I find that Applicant did not intentionally omit information from his evaluation with Dr. B. As such, the security concern under AG ¶¶ 16(b) has not been established for SOR ¶¶ 4.a.

Whole-Person Concept

Under the whole-person concept, the administrative judge must evaluate an applicant’s eligibility for a security clearance by considering the totality of the applicant’s conduct and all relevant circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable

participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guideline I, Guideline G, Guideline J and Guideline E in my whole-person analysis.

In 2016, Applicant's previous duties in Iraq and his friend's suicide culminated in Applicant seeking help with his mental health. He treated for PTSD into 2017 and established behavioral tools to maintain his stability as he approached his next deployment. Over time, he has established that he is able to self-regulate and does not require ongoing mental health treatment. He is also aware of facilities near him should mental health services be needed.

I had the opportunity to observe Applicant's demeanor during his testimony and found that he was credible and candid. He recognized he exercised poor judgment in his actions leading up to the Article 15 in 2019 and his DUI charge in 2021. He articulated changes he made over time to establish that he is capable of exercising the judgment, reliability and trustworthiness necessary to hold a security clearance. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the 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 I: FOR APPLICANT

Subparagraphs 1.a – 1.b: For Applicant

Paragraph 2, Guideline G: FOR APPLICANT

Subparagraph 2.a: For Applicant

Paragraph 3, Guideline J:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Paragraph 4, Guideline E:	FOR APPLICANT
Subparagraph 4.a:	For Applicant

Conclusion

In light of all of the circumstances, it is clearly consistent with the national interest to grant Applicant a security clearance. Eligibility for access to classified information is granted.

Bryan J. Olmos
Administrative Judge