



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



In the matter of:)
)
) ISCR Case No. 24-00278
)
)
Applicant for Security Clearance)

Appearances

For Government: George Hawkins, Esq., Department Counsel
For Applicant: Grant Couch, Esq.

10/16/2025

Decision

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the personal conduct security concerns. Eligibility for access to classified information is denied.

Statement of the Case

On May 6, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline E, personal conduct. The DOD acted under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) implemented on June 8, 2017. Applicant, through counsel, responded to the SOR on June 4, 2024 (Answer 1), and requested a hearing before an administrative judge from the Defense Office of Hearings and Appeals (DOHA). On September 4, 2024, the Government amended the SOR to include additional allegations under Guideline E. Applicant, through counsel, responded to the amended SOR on September 17, 2024 (Answer 2). The case was assigned to me on March 7, 2025. After conferring with the parties about their hearing availability, on March 11, 2025, DOHA sent a notice of hearing to the parties, scheduling the matter for a hearing on June 2, 2025.

On April 7, 2025, Applicant submitted a Request for Discovery that sought discovery of information from the Government that was both within and outside the scope of information of which the Directive required disclosure by the opposing party. That same date, via e-mail, I partially denied his Request for Discovery and required the Government disclose only the requested information required by the Directive, namely documents that the Government intends to present as evidence during the hearing.

On April 24, 2025, Applicant filed a Motion for Recusal moving that I recuse myself as the administrative judge in this matter and that another administrative judge be assigned. The Motion for Recusal included a declaration from another attorney within Mr. Couch's law firm. I have marked the Motion for Recusal and declaration as Hearing Exhibit (HE) 1. On May 8, 2025, the Government filed its Opposition to the Motion for Recusal, which I marked as HE 2.

On May 30, 2025, Applicant filed a request that I take judicial notice of a constitutional amendment and a federal statute. I have marked this request for judicial notice as HE 3. I deemed this request to have been untimely filed as it did not provide the Government with appropriate notice and an adequate opportunity to respond. To allow for appropriate notice of his request for judicial notice, I granted Applicant's request for a continuance of the hearing date.

After conferring with the parties about their hearing availability, on June 5, 2025, DOHA sent a notice of hearing to the parties rescheduling the matter for a hearing on July 29, 2025. The hearing was convened as rescheduled. Government Exhibits (GE) 1 through 9 were admitted in evidence, without objection. I marked the Government's October 9, 2024 transmittal letter that included its exhibit list describing GE 1 through 9 as HE 4. Applicant Exhibits (AE) A through DD were admitted in evidence, without objection. I marked Applicant's exhibit list contained in Answer 1 describing AE A through N as HE 5. I marked Applicant's exhibit list describing AE O as HE 6. I marked Applicant's exhibit list describing AE P through X as HE 7. I re-marked the contents of Applicant's exhibit list from Answer 2 describing AE A through F as AE Y through DD, as he used the same alphabetical markings for other documents (also marked AE A through F) he submitted with Answer 1 (Transcript (Tr.) 64). I marked the exhibit list contained in Answer 2 as HE 8. At Applicant's request, I left the record open until August 5, 2025, to allow the parties to provide post-hearing documents. Applicant timely provided AE EE through II, which I admitted in evidence, without objection. I marked Applicant's exhibit list describing post-hearing exhibits EE through II as HE 9. DOHA received the transcript of the hearing on August 5, 2025.

Preliminary Motions

After offering the parties the opportunity to be heard on Applicant's Motion for Recusal, I denied it and noted my basis for that denial in the record. I also offered the parties the opportunity to be heard on the request for judicial notice and then granted it in part and denied it in part. I noted my basis for doing so in the record. (Tr. 7-16; AE P-X)

Findings of Fact

Applicant is a 45-year-old employee of a defense contractor for whom he works as a linguist. He has worked for his current employer since about April 2024. He has been continuously employed by other government contractors as a linguist since about January 2021. He was born in Iraq but renounced his Iraqi citizenship and became a naturalized U.S. citizen in February 2010. He earned a high school diploma in 1999 and bachelor's degree in 2003. He received a diploma from the U.S. Military Intelligence School in 2010. He was married in March 2012 and divorced in February 2013. After his divorce, he and his ex-wife began living together again. He married another woman in February 2024. He has an 11-year-old stepdaughter from his second marriage. He and his wife also have a seven-month-old son. He served on active duty in the U.S. Army from August 2009 until April 2013, when he received an honorable discharge. He was not disciplined under the Uniform Code of Military Justice (UCMJ) while he was on active duty. He has served in the Army National Guard on inactive reserve duty since April 2013. He was deployed to an active combat zone during his Army service, and at times, while working for a government contractor. (Tr. 116-125, 164-168, 176-177; Answer 1; Answer 2; GE 1-3; AE B, D-G, O, HH)

Generally, the SOR allegations involve Applicant's alleged poor work performance and misconduct while working as a linguist for an employer (Company A), for whom he worked between 2015 and September 2019. More specifically, this alleged misconduct occurred while he was detailed by Company A to a Joint Task Force (JTF) at a military base overseas. The SOR allegations also include Applicant's deliberate falsification of two security clearance applications and the untruthful information he provided during a January 2020 Counterintelligence-Focused Security Screening Interview (CI Interview). Finally, the SOR alleges that Applicant raped his wife in 2012.

In a September 10, 2019 Memorandum for the Record (MFR), JTF memorialized that it released Applicant back to Company A and rescinded "his access to JTF facilities and systems due to his unsatisfactory performance." The MFR, signed by the JTF J2, and drafted, in part, by his military supervisor, Master Sergeant (MSGT) A, alleged that Applicant "failed to adapt to the pace, precision required, and demands of the linguist position here with JTF." The MFR noted that Applicant had "bypassed the military chain of command on multiple occasions speaking directly with the JTF J2 SGM and the JTF J6 without informing or requesting TL (MSGT A) concurrence or guidance." The MFR also listed Applicant's unwanted advances toward a female military service member. In a Separation Form, dated September 16, 2019, Company A indicated that Applicant was being involuntarily separated at the direction of its client (presumably the JTF) for "[p]erformance" and was not eligible for rehire by US Special Operations Command (USSOCOM). On September 17, 2019, a civilian employee with the US Army sent an e-mail to Applicant notifying him of an incident report (IR) that quoted the reasons for his release from JTF contained in the MFR. (Tr. 47-49, 178; Answer 1; Answer 2; GE 5, 6; AE A)

The IR stated in relevant part:

Per a Memorandum for Record from the Joint Task Force, subject has failed to adapt to the pace, precision required and demands of the linguist position at the Joint Task Force (JTF). Subject bypassed the military chain of command on multiple occasions speaking directly to the JTF SGM and the JTF J6 without informing or requesting Task Lead concurrence or guidance. Subject has, on more than one occasion, made unwelcome advances towards a US military female. The MFR states subject admitted to his actions and did not perceive them as an issue. The MFR also states subject was formally counseled at the time of the incident. (Company A) was not provided any documentation of this formal counseling.

The e-mail informed Applicant that he was required to provide a response to the Department of Defense Consolidated Adjudication Facility (DOD CAF). (AE A)

In the September 19, 2019 security clearance application (2019 SCA) that Applicant certified as true and accurate, in response to a query regarding his reason for leaving Company A, he wrote that "I was told by my previous employee [sic] known as [Company A] that I am no longer needed my services and got out-processed as of 10 Sep 2019." When referencing his employment with Company A, he responded, "NO" to the query whether "[f]or this employment, in the last seven years have you received a written warning, been officially reprimanded, suspended, or disciplined for misconduct in the workplace, such as violation of a security policy?" In response to the query of whether he had been fired, quit after being told he would be fired, left by mutual agreement following charges or allegations of misconduct, or left by mutual agreement following notice of unsatisfactory performance, he answered, "NO."

When answering queries in the 2019 SCA about his past work for another employer (Company B) from October 2013 until April 2014, he wrote that he had been fired by Company B in September 2019, and wrote the following for his reason for being fired:

Allegation has been made on my misconduct as a result of a personal issue developed with an un mature [sic] team leader of the client I was assigned to from June to 10 Sep 2019.

Under the heading, "Optional Comment" for his employment with Company B, he wrote the following:

While the Team Leader named [MSGT A] of the client has made a decision to get me released from work, while [MSGT A] briefed me, he was drunk, acted un maturely [sic] and unprofessionally.

Applicant testified that he did not include information regarding his dismissal from Company A in his 2019 SCA because when he completed it, he did not know for certain that Company A had terminated him, and that he was waiting on the "official" word from Company A. He did not consider his release from JTF back to Company A as being fired because MSGT A did not have the authority to fire him, only to release him. He testified

that only Company A could fire him. He testified that Company A merely told him that his services were no longer needed. Before he left the country where he was stationed with Company A, he asked his Company A supervisor for an official report so that he could “protest it” and “hire an attorney.” The Company A supervisor allegedly told him that he would get an official document when he got home. Applicant claimed that when he got home and asked the Company A human resources office for the official document, they would not provide him with one. He claimed that he provided the information that Company A provided him about the reason for his dismissal of which he was aware when he completed the 2019 SCA. Notwithstanding his testimony, he appears to have incorrectly noted the Company A misconduct allegations against him when describing his employment with Company B. (Tr. 156-158, 176-178, 182-184, 192-198; Answer 1; Answer 2; GE 1, 4, 5; AE A, F)

The report of a January 2020 Counterintelligence-Focused Security Screening Interview (CI Interview) reads that Applicant told the interviewer that, in relation to his employment with Company A, he “left because his contract ended.” There is no information in the CI Interview about performance issues as a reason for Applicant leaving that employment. In relation to where he has resided, the CI Interview reads that he left [Location A] in September 2019 “because his contract ended as a linguist with [Company A].” During the CI Interview, he volunteered that his ex-wife accused him of sexual abuse, claiming that her mother and sister pressured her into making this claim, that she later recanted, and the charges were dropped. He indicated that he had never been accused of a security violation or had his security clearance suspended, revoked or denied. The CI Interview also reads that he drinks one to two glasses of wine per week. The report does not include any information regarding a medical diagnosis or condition that precludes Applicant from consuming alcohol. (Answer 1; Answer 2; GE 2; AE O)

Applicant testified that, when he had the (January 2020) CI Interview, he still had not received an official reason from Company A for why it terminated him. Therefore, he provided the information that he thought was truthful based upon what Company A told him on September 10, 2019, to wit: that he left because his contract ended. (Tr. 158-159, 195; Answer 1; Answer 2; GE 2)

In the October 2022 security clearance application (2022 SCA) that Applicant certified as true and accurate, in response to a query as to his reason for leaving Company A, he wrote the following:

There was discrimination I faced at my assignment location based on my race and natural origin, I reported it to my On-site manager who was my direct supervisor in OCONUS, in a result of that, the US military service member team leader who was known as [MSGT A] terminated my assignment and my employer [acronym for Company A] wrongfully terminated my employment and I am currently in lawsuit process against my previous employer [acronym for Company A]. My current attorney’s name is [Mr. A], [Law Firm] located at [address], [phone number]. (GE1)

In the 2022 SCA under the heading, "Reason for Leaving-Summary," he wrote, "[f]ired" and stated the following:

There was discrimination I faced at my assignment location based on my race and natural origin, I reported it to my On-site manager who was my direct supervisor in OCONUS, in a result of that, the US military service member team leader who was known as [MSGT A] terminated my assignment and my employer [Company A] [acronym for Company A] wrongfully terminated my employment and I am currently in lawsuit process against my previous employer [acronym for Company A]. The discrimination occurred adult [sic] toxic work environment which created by the US military service member [MSGT A] and I have another close friends [sic] who faced the same discrimination based on his race and natural origin can be reached to verify, [Mr. B] at [phone number]. My attorney's name is [Mr. A], [Law Firm] located at [address], [phone number]. (GE 1)

Under the heading, "[p]rovide the reason for being fired," he wrote the following:

Due to a bad leadership who created a most toxic environment and it was covered during the last subject interview of investigation. There was discrimination I faced at my assignment location based on my race and natural origin, I reported it to my On-site manager who was my direct supervisor in OCONUS, in a result of that, the US military service member team leader who was known as [MSGT A] terminated my assignment and my employer [acronym for Company A] wrongfully terminated my employment and I am currently in lawsuit process against my previous employer [acronym for Company A]. The discrimination occurred adult [sic] toxic work environment which created by the US military service member [MSGT A] and I have another close friends [sic] who faced the same discrimination based on his race and natural origin can be reached to verify, [Mr. B] at [phone number]. My attorney's name is [Mr. A], [Law Firm] located at [address], [phone number]. (GE 1)

Regarding the same employment with Company A, under the heading "Optional Comment," he repeated the same information he included under the heading "Reason for Leaving-Summary."

Applicant testified that the information he provided regarding his leaving Company A in the 2022 SCA was accurate and represented why he thought he had been let go based on the information he had. He also noted that he had already provided the information about his reasons for leaving. He said he has been open and honest throughout the clearance process. (Tr. 159, 195-196; Answer 1; Answer 2; GE 1, 4, 5)

In the February 2023 report of personal subject interview (and follow-on interviews) (PSI) that Applicant adopted on April 15, 2024, the DOD investigator confronted him with Company A's employment record, and why he was fired. The DOD investigator discussed each of Company A's stated reasons for firing Applicant with him and included his

responses in the PSI. With respect to the claim that he did not adapt to his position, Applicant argued that he worked at Company A for four years and his failure to adapt would have been raised sooner if it was an issue. With respect to the claim that Applicant bypassed the military chain of command, he noted that he was not in the military when he worked for Company A and therefore raised employment issues with his Company A supervisor. He also claimed that his military supervisor, MSGT A, had a personal issue with him, and made false claims against him. (Answer 1; Answer 2; GE 4, 5)

In the PSI, regarding the allegation that Applicant made unwanted advances towards a female colleague, he acknowledged that he asked a female colleague out on a date after they began texting one another, but he ceased his advances after she told him that she did not want to date him. He claimed that his professional relationship was good with her from the time she told him she did not want to date him until she thought she would be reprimanded for her role in a nearly failed mission. He claimed that she reported him for harassment to avoid getting in trouble and intimated that MSGT A coerced her into making a false accusation against him. In short, he denied all accusations against him and told the DOD investigator that he was suing Company A for wrongful termination, discrimination, and toxic leadership by MSGT A. (Answer 1; Answer 2; GE 4, 5)

During the PSI, the DOD investigator confronted Applicant with his 2012 sexual assault charge against his ex-wife. Applicant claimed that he did not sexually assault her, that his mother-in-law coerced her into making a false allegation, and that the relevant criminal investigation bore this information out and resulted in the charges being dropped. (Answer 1; Answer 2; GE 4)

In August 2012, Applicant's ex-wife accused him of raping her. According to a police report, she told Applicant "no" three times when he asked her to engage in sexual intercourse. After the third time she refused him, she alleged that he pinned her on her stomach while holding both hands behind her back and penetrated her vagina with his penis for about 20 seconds, until he stopped, and she kicked him off of her. About a day after the incident, she went to the hospital for treatment, and the hospital notified the police of a possible rape. Police interviewed her at the hospital. They noted that she did not have any marks on her body consistent with her story. After one of the officers suggested that a rape charge may ruin her husband's career, and another told her that his career may already be ruined, they asked her if she wanted to press charges against him, and, while crying, she said she wanted to press charges. After further questioning, she signed the formal complaint form. (Tr. 168-174; Answer 1; Answer 2; GE 7; AE GG)

Later that day, one of the same officers who interviewed Applicant's ex-wife went to Applicant's home to interview him. In response to questioning, Applicant alleged that she consented to sexual intercourse after a few moments of him "practically begging" for it. He claimed he stopped having sexual intercourse with her because he noticed she was not into the act. He acknowledged that she pushed him off of her but did not "kick" him. He said that she normally teased him about not having sex but would then relent and admit that she wanted to have sex more than he did. He intimated that is what happened on this occasion. He acknowledged that his ex-wife told him that night that she thought

he raped her. Applicant told police that he told his ex-wife that he did not rape her and that she is his wife. She responded by saying that she wanted a divorce. The police officer noted that he had been trained to recognize deception in the course of his duties and did not note any from Applicant during their interview. The police officer wrote that Applicant asked him if it was possible to rape one's wife. (Tr. 168-174; Answer 1; Answer 2; GE 7; AE GG)

A day after these interviews, Applicant's ex-wife called the relevant police department and told them that Applicant had e-mailed her and her mother claiming he would commit suicide. When an officer responded to Applicant's residence and spoke with him, he claimed that he did not send any e-mails or contact his ex-wife and that he was okay. The police officer noted that Applicant did not appear to be in any emotional or physical distress. On September 4, 2012, Applicant's ex-wife went to the relevant police department and asked that police drop the rape charges against him, which they did. About four months after the alleged rape, he filed a divorce petition that was finalized in February 2013. Applicant testified that he and his ex-wife got a divorce so that she could more easily leave him if she was unhappy with him, but that, absent a brief period of separation, they moved back in together and continued to live as husband and wife for several years thereafter. (Tr. 168-174; Answer 1; Answer 2; GE 7; AE GG)

On November 19, 2012, the Army issued a Commander's Report of Disciplinary or Administrative Action against Applicant noting the charge of forcible rape and taking administrative action against him. It referred him to Family Advocacy, and he was verbally counseled. In a November 13, 2012 CID report of investigation, the CID noted that the relevant local police department found that probable cause existed to believe that Applicant had committed forcible rape against his ex-wife. It also noted the Special Victims Prosecutor of the Office of the Staff Judge Advocate opined that probable cause exists to believe that Applicant committed the crime of forcible rape. The Government did not provide a copy of the November 7, 2012 Legal Opine Memo, one of the exhibits to the CID report of investigation. The Army withheld that two-page document because it purportedly contains information protected by attorney-client privilege or attorney-work product. (Tr. 174-175; Answer 1; Answer 2; GE 8, 9; AE GG)

In a letter dated July 31, 2025, Applicant's ex-wife denied that Applicant raped her in 2012 and stated that her family influenced her to file criminal charges against him. She noted that they became friends after their divorce and moved in together for a period of time. (Tr. 164-168; Answer 1; Answer 2; GE 4, 7-9; AE GG)

Applicant testified that he did not rape his ex-wife in 2012. He acknowledged that they had normal marriage stressors possibly exacerbated by his being in the Army at the time. He testified they also had some intimacy issues, but that he never forced himself on her. He said that she had met with Army CID investigators and that she told one of the investigators that she was mad at him and made a false accusation against him. He also said that she told the Army CID investigator that she was being unduly influenced by her mother and sister. He agreed that his sister-in-law and mother-in-law were coercing her into make the rape allegation against him. He also claimed that the CID officer who investigated the alleged rape made a comment to him that he did not think that people of

Middle Eastern background should be in the U.S. military. He said that after the incident, they underwent marriage counseling and eventually got back together for a while before they separated. He said that they remained friends after separating and divorcing. He said that, in 2017, when she was interviewed by an investigator of the Office of Personnel Management (OPM) regarding his security clearance eligibility, she told the investigator that she made a false rape allegation against him. He testified that he understands that one cannot have sexual intercourse without consent, even if it involves one's wife. (Tr. 151-156, 168-174; Answer 1; Answer 2; GE 7-9; AE GG)

MSGT A testified as part of the Government's case in chief. He has served with the U.S. Marines for 19 years and has held Top Secret/Secret Compartmented Information (TS/SCI) security clearance eligibility since 2010. He has been deployed multiple times, including to combat zones. He was Applicant's military supervisor from early July 2019 until Applicant was released from his duties with JTF and returned to Company A on September 10, 2019. MSGT A testified that he initially had no problem with Applicant. He was told by his predecessor that Applicant was held in high regard, and, after meeting Applicant, he thought Applicant seemed professional. However, his opinion of Applicant gradually soured. He testified that the first issue he had with Applicant was that a female soldier whom he supervised came to him claiming that Applicant was making unwanted advances toward her, and she wanted it to stop. He conducted an informal investigation by talking with others who might have information about the matter and talked to his supervisor about how to handle the situation. He also spoke with his predecessor who corroborated many of the female soldier's allegations. The female soldier wrote a memorandum for the record detailing her allegations. That memorandum is not in evidence because it was housed in a computer information system at a clearance level higher than that permitted in this proceeding. (Tr. 26-36, 68-75, 96; Answer 1; Answer 2; GE 4-6; AE L)

MSGT A also reviewed text messages between Applicant and the female soldier which can be described as showing Applicant was pursuing the female soldier romantically, but not in an aggressive manner. MSGT A verbally counseled Applicant, who denied any wrongdoing. He also had Applicant sign a form acknowledging the counseling. This counseling form is not in evidence. Applicant does not recall signing a document and claimed the discussion about ceasing his romantic pursuit of the female soldier was informal and largely conducted by MSGT A's predecessor. MSGT A changed the female soldier's shift so that she would have less chance of interacting with Applicant. The text messages in the record do not provide evidence that the female soldier asked Applicant to stop contacting her or that Applicant continued to do so after he was counseled to stop. (Tr. 26-36, 68-75, 103, 184-189; Answer 1; Answer 2; GE 4-6; AE L)

Applicant testified that he became friendly with the female soldier, exchanged friendly texts with her, asked her on a date, and then stopped contacting her when MSGT A told him to stop. He acknowledged MSGT A and a lieutenant colonel verbally counseled him, but he denied doing anything wrong. He claimed he did not have any issues with the female soldier after MSGT A told him to stop contacting her. He also alleged that the female soldier falsely claimed that he was harassing her as a way to get herself out of trouble for an unrelated event. (Tr. 127-132; Answer 1; Answer 2; GE 4-6; AE L)

MSGT A testified that other linguists with whom Applicant worked complained to him that Applicant was late arriving to work, often smelled of alcohol when he did arrive, and often had bloodshot or distended eyes. The other linguists also told MSGT A that Applicant was drinking off base. Consuming alcohol without a waiver was against applicable General Order Number 1. MSGT A observed that Applicant often had bloodshot and distended eyes. He never observed Applicant arrive to work late, consume alcohol, or that he smelled of alcohol. He verbally counseled Applicant about drinking alcohol generally, and more specifically, off base. MSGT A testified that in response to this counseling, Applicant simply said that he understood he could not consume alcohol, without confirming that he had been consuming it. MSGT A was not aware that Applicant had a medical condition called gastroesophageal reflux disease (GERD) which Applicant said prevented him from consuming alcohol. MSGT A acknowledged that he, himself had consumed alcohol during this deployment, but that it was for operational purposes. He also acknowledged that it was possible that Applicant consumed alcohol for similar operational purposes, but none that he was aware of. MSGT A testified that, by this point, he was becoming frustrated with the inordinate amount of time he was having to devote to dealing with Applicant's personnel issues, and he warned Applicant that if he had any more issues with him, he would release him from JTF. (Tr. 36-39, 75-85, 105; Answer 1; Answer 2; GE 4-6; AE O)

Applicant denied that he stayed overnight offsite partying, frequenting bars, and drinking alcohol, or that he arrived to work late the following day. He noted that, since the end of 2012, he has suffered from GERD and a hiatal hernia, the painful symptoms of which would be exacerbated by his alcohol consumption. He said that he does not consume alcohol because of this medical condition. He also testified that MSGT A never counseled him about consuming alcohol. He claimed that other linguists, including one in particular who was MSGT A's favorite linguist, were consistently "bad mouthing" him. He claimed that he complained to MSGT A about this particular linguist being late on a number of occasions, but MSGT A did not take any action against that linguist. He claimed that he was never late for his shift because his military experience had ingrained in him the importance of being on time, so it became a "muscle memory." (Tr. 146-148, 189-190; Answer 1; Answer 2; AE O)

Applicant denied that he failed to adapt to his position. He testified that the only reason MSGT A thought he made translation errors was based on false accusations by other linguists who were jealous of Applicant's good standing. He noted that he may have taken longer to translate than other linguists, but that was because he was trying to be accurate and paying close attention to detail. He provided e-mails from Company A showing that he had done very well on Arabic and Kurdish proficiency tests. (Tr. 132-134; Answer 1; Answer 2; AE A)

Shortly after counseling Applicant about his alleged alcohol consumption and arriving late to work, a female linguist came to MSGT A and claimed that she witnessed Applicant smelling women's undergarments in the JTF compound laundry room. This individual provided the information regarding Applicant late in MSGT A's shift, so he went to bed, planning to deal with the issue in the morning. About five hours later, MSGT A

was back at work drafting memorandums about this allegation to send to Company A, when his security officer called and told him that Applicant had twice called the security office to let them know that he had been awarded security clearance eligibility at a higher level. MSGT A took issue with Applicant contacting the security office without letting him know because he had regularly instructed his linguists to seek his permission before contacting people outside his team. (Tr. 41-49, 85-97, 105-111; Answer 1; Answer 2; GE 4-6; AE L, M)

MSGT A saw himself as a gatekeeper, of sorts, for contact outside of the group for which he was the supervisor. While his predecessor did not have this requirement, he let his team, including Applicant, know about it when he took his supervisory role in July 2019, and he reiterated it regularly. He did not reiterate this policy to Applicant between his two phone calls to the security office. He considered Applicant contacting the security office before checking in with him to be Applicant bypassing the chain of command. When he got off the phone with the security officer, another linguist came to MSGT A and informed him that Applicant had been acting suspiciously by talking in low, hushed tones on a classified phone line. It was at about this time that MSGT decided to release Applicant from supporting JTF and released him back to Company A. On September 10, 2019, MSGT A told Applicant that he was releasing him back to Company A and relieving him of his support role with JTF. (Tr. 41-49, 85-97, 105-111; Answer 1; Answer 2; GE 4-6; AE L, M)

Applicant denied that he smelled women's undergarments in the laundry room. There is no video footage of him doing so because there were no video cameras in the laundry room. In June 2021, the woman who accused him of smelling women's undergarments was convicted of delivering classified national defense information to aid a foreign government and sentenced to 23 years in prison. She passed classified information to a Lebanese national, believing that it would then be forwarded to Lebanese Hezbollah. The information she provided included identifying information about human intelligence assets. Applicant testified that she and MSGT A were close, as she did things like hide alcohol for him. He claimed that he told MSGT A that she was acting suspiciously, and that after that, she was out to get Applicant. He also testified that handling women's clothes is taboo in his culture. (Tr. 39-41, 138-142; Answer 1; Answer 2; GE 4-6; AE EE)

Applicant denied that he went outside the chain of command when he contacted the task force's security office. He said he was interested in moving from a Category II to Category III linguist to advance his career, and he took the steps to obtain a higher level of security eligibility than the Category III linguist position required. During his testimony, he did not directly address whether he contacted the task force's security office in contravention of MSGT A's direction. He alluded to being uncomfortable going directly to MSGT A because he thought MSGT A was unduly influenced by other linguists who were making false accusations against him. He thought MSGT A held a grudge against him because Applicant spoke negatively about MSGT A to his Company A supervisor, and he thought MSGT A found out about it. He also alluded to a lack of clarity as to the command chain between JTF and Company A, and confusion as to whom he was required to report. He testified that his actual supervisor was the site manager for Company A. He also

testified that MSGT A did not understand that he had a valid reason for going outside the chain of command, which was that he was being processed for another government agency. He also testified that his clearance eligibility elevation had “nothing to do with him [MSGT A]” and he (MSGT A) had “no call on that.” (Tr. 134-138, 180-181, 191-192; Answer 1; Answer 2; GE 4-6; AE M)

MSGT A testified that Applicant became enraged when he told him he was being released. Applicant told MSGT A that he was making a huge mistake, that none of this was his fault, and he did not do anything wrong. After letting him vent, MSGT A told Applicant his decision was final, and that Applicant needed to pack his belongings because he would be escorted off the base in an hour. He asked a service member to escort Applicant while he packed his things, and to make sure that he did not go anywhere he was not supposed to go. At some point later that day, the J-2 of JTF came to his compound and showed him a map of MSGT A’s JTF compound and other task force compounds on base. MSGT A considered at least some of the information on this map to be classified. His understanding was that Applicant, in an attempt to file a complaint, had drawn the map and given it to a military police officer who MSGT A thought did not have a need to know this information. MSGT A believed providing this map to the military police officer constituted spillage. (Tr. 49-55, 97-100; AE FF)

Applicant testified that after he was released by MSGT A from JTF, he decided to report MSGT A for allowing alcohol consumption and storage on JTF’s compound. On September 10, 2019, after JTF released him, but before he flew home, Applicant filed a complaint with the CID against MSGT A for storing and consuming alcohol on base. He claimed that he knew the CID agents to whom he reported this information had security clearance eligibility, and they told him that once he reported it, he had to draw them a map to assist in the investigation of his claim. He also claimed that the information in the map was not classified because of the nationalities of others who access the JTF compound. He claimed that MSGT A had been tipped off about his complaint and moved the alcohol, so that CID did not find it when they looked. He claimed that Company A was required to investigate the storing and use of alcohol, but it did not. He also claimed that armed service members consuming alcohol on base made him fearful and uncomfortable. The CID agent confirmed in writing that he asked Applicant to draw the map. (Tr. 142-146, 192; Answer 1; Answer 2; GE 4; AE FF)

MSGT A testified that shortly after he told Applicant to pack his things and await being escorted off base, he was sitting beside his senior intelligence officer, who showed him texts that Applicant was sending to him. MSGT A testified that at first the texts he saw were pleading with the senior intelligence officer not to release him, but when the senior intelligence officer did not respond, the texts became angry in nature. MSGT A recalled that Applicant texted that they would regret their decision, and he believed Applicant used the word “infidel” in one of the messages. He acknowledged that his memory was fuzzy as to the precise language he saw in the texts, including the use of “infidel.” MSGT A testified that he perceived some of the information in the texts as threats and it reinforced his decision to release Applicant from JTF. He and the senior intelligence officer called Company A’s linguist manager and told him about these text messages, and that they considered them to be threats. (Tr. 55-60, 100-104)

Applicant testified that he did not send any text messages to anyone after JTF released him back to Company A. He testified that after he was released, he checked his work cell phone back in with JTF, so he could not have sent texts. He did not keep the receipt for turning his JTF phone back in. He also testified that he would not use the term “infidel,” because it is culturally and religiously offensive to him. He accused MSGT A of lying about this incident. He claimed that MSGT A was embarrassed about being accused of drinking and storing alcohol, so he made up the story about the threatening text messages. (Tr. 148-151, 190-192)

MSGT A testified that he thought Applicant resented him because he was his supervisor despite being younger than Applicant. He said he found Applicant to be dishonest and gave an example of Applicant telling the security office that he needed a security account for a special project with MSGT A, which was fabricated. He does not believe Applicant should be granted security clearance eligibility. He testified that he did not have any animosity toward Applicant and that, outside the personnel issues described herein, Applicant’s work was fine. (Tr. 55-60, 100-104)

Applicant testified that he had no personnel issues at Company A before MSGT A became his supervisor in early July 2025. He stated that his performance was outstanding. He testified that he had 14 or 15 military supervisors prior to MSGT A but was never counseled by any of them. He disagreed with the veracity of the reasons that JTF and Company A gave for releasing him and terminating his employment, respectively. He provided an e-mail from a company notifying him that he had scored the highest the sender had ever seen on an Arabic test, which was presumably a proficiency test. (Tr. 122-126; GE 5, 6; AE A)

Applicant received various forms of recognition and awards while he was in the military. For example, he was entered into the rolls of the Order of the Combat Spur, and he was awarded an Army Good Conduct Medal, an Army Commendation Medal, and his unit was awarded an Army Superior Unit Award. He also received various military training certificates and intelligence analyst certifications. (AE C, G and DD)

Applicant’s wife wrote a letter, dated August 2, 2025. In the letter, she wrote that Applicant is a great husband and dad and puts his family’s needs before his own. She says that they have a healthy marriage, and she is very happy with him. (AE HH)

Another individual, who shares much the same background as Applicant and worked with him at Company A, said that Applicant is professional, hardworking, and successful. The writer noted that other linguists would often show jealousy toward anyone that was successful and claimed that other linguists would file baseless complaints against him and Applicant, who were both prior U.S. military occupation specialists. This individual opined that Applicant’s employment issues with Company A were a result of the tension with other linguists and their jealousy over Applicant’s success. The writer attested to Applicant’s honesty, work ethic, and loyalty, and said he has always conducted himself with integrity. (AE II)

Applicant provided various other character-reference letters. In one, the writer noted the high quality of Applicant's work, that he complies with workplace rules and regulations, and that he was well-liked. Another, the deputy director of an agency for which Applicant provided support as a linguist overseas, expressed gratitude for Applicant's services and noted the accuracy of his translations, cultural awareness, and diplomacy. He recommended Applicant as a linguist "with no hesitation." Another noted his patience, professionalism, sense of humor, and easygoing nature. Another writer noted his skills with intelligence methods, especially with open-source material, and his mentorship. Most of these character-reference letters do not note whether the writer was aware of the SOR allegations. (AE I, J, Z, AA, BB, CC)

In November 2020, Applicant was awarded security clearance eligibility with a waiver because of security concerns surrounding his family members who were citizens and residents of Iraq. After this security eligibility award with a waiver, he contacted his member of Congress to help him have the waiver removed, but he was unsuccessful in doing so. He also contacted his member of Congress about his removal from Company A and made two additional complaints through various DOD Inspector General Offices in January and March 2020. The DOD responded that Company A was the adjudicating entity for the termination of Applicant's employment and not the U.S. Government. (AE A, N)

In April 2024, Applicant's current employer informed him that he passed a polygraph test given to him by DOD in relation to his security clearance eligibility. The contents of what was discussed during this polygraph are not in evidence. (AE A)

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 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 are potentially applicable in this case:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(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;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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; and

(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; and

(4) evidence of significant misuse of Government or other employer's time or resources.

The Government must provide substantial evidence of Applicant's alleged employment poor performance and misconduct, alleged falsification of security clearance eligibility information in the 2022 SCA, the CI Interview, and the 2019 SCA, and the alleged commission of rape. This evidentiary standard means it must provide more than a scintilla of evidence but less than a preponderance of evidence. Given that Applicant denied all the disqualifying conduct contained in the SOR and Amended SOR, a credibility determination is crucial to my decision in this case, including whether the Government has met its aforementioned burden. This credibility determination is more nuanced than simply only believing Applicant or only believing the sources of evidence of the allegations that are leveled against him, because the reliability of the evidence of disqualifying conduct varies.

For example, some of the evidence of Applicant's alleged misconduct, such as any transcription errors he made in 2019, evidence that he was late for work or out drinking all night, were based upon information provided to MSGT A by sources of unknown reliability. However, certain other evidence, such as the evidence MSGT A provided based on his first-hand knowledge tends to be more reliable. When MSGT A's testimony directly contradicts Applicant's, both cannot be true, so I have to choose one version over the other. In these instances, I find MSGT A's testimony is more credible than Applicant's. I have several reasons for this finding.

First, and most importantly, I note that some of Applicant's explanations about his reason for not being more forthcoming with potentially damaging information strained credulity, were misleading by omission, or were inconsistent with the evidence. For example, Applicant claimed that, during the CI Interview, he told the interviewer in response to two separate questions that he left his employment with Company A because his contract ended, as that was the only official information that Company A provided him at the time. These two responses were untruthful by omission. By the time of the CI Interview, he knew that he had been released by JTF for disciplinary reasons from multiple sources, including the September 17, 2019 e-mail notifying him of the IR. He may have disagreed with the validity of the reasons for which he was released, but he knew that, while technically true, his employment with Company A did not end only because his contract ended. It ended because JTF released him back to Company A for reasons that could be detrimental to Applicant, so he had motivation to avoid revealing them.

Applicant also was not entirely truthful about the reasons that he provided for being terminated by Company A in his 2022 SCA. In relation to his reason for leaving Company A, he wrote that he was discriminated against because of his race and national origin. While I make no finding about his discrimination claim, what is clear is that he knew that Company A released him for other reasons related to his performance, more specifically those listed in the MFR. However, he deliberately chose not to include that information in the 2022 SCA. Instead, he only presented the version most favorable to him without mentioning JTF's reasons for releasing him or Company A's reasons for terminating his employment. A security clearance investigation is not a forum for an applicant to split hairs or parse the truth narrowly. The government has a compelling interest in protecting and safeguarding classified information. That compelling interest includes the government's legitimate interest in being able to make sound decisions, based on complete and accurate information, about who will be granted access to classified information. An applicant who deliberately fails to give full, frank, and candid answers to the government in connection with a security clearance investigation or adjudication interferes with the integrity of the industrial security program. ISCR Case No. 01-03132 at 3 (App. Bd. Aug. 8, 2002)

The CI Interview also revealed another unaddressed discrepancy in Applicant's testimony. As part of his argument to prove that he was not drinking alcohol while working for Company A and JTF in 2019, he claimed GERD, that he had since 2012, prevented him from consuming alcohol. However, just six months later, he told the interviewer in the CI Interview that he consumes one to two glasses of wine per week.

Next, Applicant has greater motivation to be untruthful. He knows that his reputation, security clearance eligibility, and possibly his employment, are impacted by the outcome of this hearing. MSGT A has less motivation to be untruthful. While he has some motivation to protect his reputation, he has no other discernible motivation to be less than forthcoming. Moreover, MSGT A felt strongly enough about telling his version of events that he agreed to testify about his experience with Applicant despite having little discernible ulterior motive for doing so.

Finally, I found Applicant rarely, if ever, admitted fault and consistently placed the blame on others when things did not go his way. For example, the DOD made a mistake when they granted his security clearance eligibility with a waiver because of his foreign citizen and resident family members. The female military member who claimed he sexually harassed her only did so as a quid pro quo with MSGT A to avoid her getting in trouble for another infraction. He fell out with MSGT A because other linguists had it out for him. His former mother-in-law and sister-in-law wanted his ex-wife to file false rape charges against him. MSGT A had a personal vendetta against him and fabricated JTF's allegations against him. These alleged conspiracies against him by multiple and varied parties provide a less likely explanation than his personal responsibility. While Applicant offered character-reference evidence attesting to his truthfulness and reliability, most of these letters did not indicate the writer was aware of the allegations involving his alleged dishonesty, which lessens the probative value of that evidence.

Given these considerations, in SOR ¶ 1.a, the Government alleged that Company A terminated Applicant from employment in September 2019 for failing to adapt to position, bypassing military chain of command, and making multiple unwanted advances toward a U.S. military female. It also alleged that Applicant is ineligible for rehire. There is sufficient credible evidence in the record to prove that Company A terminated Applicant for these reasons and that it deemed him not eligible for rehire. With respect to the evidence of the underlying conduct, I find there is sufficient evidence in the form of MSGT A's testimony to show that Applicant, against MSGT A's explicit instructions, went outside the chain of command when he contacted the JTF security office twice without notifying MSGT A. I find that he knew he was supposed to notify MSGT A before contacting the intelligence office but ignored these instructions. His testimony that going to the intelligence office had "nothing to do with" MSGT A and MSGT A had "no call on that," indicates that he chose to ignore MSGT A's instructions because he thought he knew better.

While the phrase "failure to adapt to position" is somewhat vague and ambiguous, going outside the chain of command could be construed as falling into that broad category of conduct. I find there is sufficient evidence to show that he failed to adapt to position with Company A by going outside of his military chain of command. While I find that Applicant stopped pursuing the female soldier after he was counseled not to, I also find that he made multiple unwanted advances toward her, as evidenced by the content in the text messages, by MSGT A's testimony of her discussion with him, and her memo that he described. The SOR allegations in SOR ¶ 1.a establish the disqualifying conditions in AG ¶ 16(d).

The Government has not provided sufficient evidence to prove that Applicant smelled women's undergarments in the laundry room of the JTF compound as it alleged in SOR ¶ 1.b. The only first-person source of this information is from an individual who was convicted of dishonest and duplicitous behavior. Her statement cannot be relied upon given Applicant's denial. I find for Applicant with respect to SOR ¶ 1.b.

There is uncontested evidence that Applicant drew a map that contained information about locations within a U.S. military installation. However, there is insufficient evidence to prove that the map contained classified information or that it was unauthorized. While MSGT A testified that he believed the map contained classified information, there is no evidence that he is the classification authority for this information. Additionally, there is no evidence that Applicant's reporting of the allegation about the storage of alcohol to the CID agent was inappropriate, and the CID agent asked him to draw the map in the course of his investigation duties. I find for Applicant with respect to SOR ¶ 1.c.

Applicant's statement to the interviewer during the CI Interview about drinking wine undermines his denial of the allegations in SOR ¶ 1.d. However, there are no first-hand accounts of Applicant consuming alcohol while he worked for the joint task force, partying all night, or being late for work. Moreover, MSGT A's observation that Applicant had bloodshot eyes and distended pupils could be explained by other factors such as allergies or another medical condition. Moreover, MSGT A acknowledged that he never noticed Applicant smelling of alcohol. I find there is insufficient evidence of the allegations contained in SOR ¶ 1.d and find for Applicant with respect to those allegations.

Given that MSGT A testified that he saw threatening text messages sent to his supervisor from Applicant, I find that there is substantial evidence that he sent these messages. However, given MSGT A's uncertainty that Applicant used the word "infidel," I find that there is insufficient evidence that Applicant texted that word, in particular. The proven allegations contained in SOR ¶ 1.e establish the disqualifying conditions in AG ¶ 16(d).

I find that despite her recantation, there is substantial evidence to prove that Applicant raped his wife in 2012. There is a police report and a CID report that find there is probable cause that he raped her. While the police report was written before she recanted, the CID report was written afterwards. Moreover, I find that his statement to police the day after the alleged rape occurred questioning whether it is possible to rape your wife casts doubt on the accuracy of his denials. His statement to his wife that he "did not rape her, she is his wife" contained in the police report also casts doubt on his understanding of what behavior constitutes rape. This conduct establishes the disqualifying conditions in AG ¶ 16(c).

As I indicated in my earlier analysis of Applicant's credibility, I find that he deliberately falsified facts regarding the reasons for leaving Company A in the 2022 SCA and the CI Interview. AG ¶¶ 16(a) and 16(b) are established for SOR ¶¶ 1.g and 1.h. In the 2019 SCA, given that he acknowledged, albeit with respect to the wrong employer,

there were allegations of misconduct leveled against him and that he was fired, I find that he did not deliberately falsify the 2019 SCA. I find for Applicant with respect to SOR ¶ 1.i.

AG ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following mitigating conditions potentially apply in Applicant's case:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and
- (f) the information was unsubstantiated or from a source of questionable reliability.

With respect to the allegations in SOR ¶¶ 1.a, 1.e, and 1.f, it has been at least six years, and in some cases 12 years, since Applicant engaged in the disqualifying conduct listed therein. Applicant's sexual misconduct occurred once while he was unhappily married and possibly did not understand the rules of consent. He testified that he now understands the need for consent, regardless of whether it involves his wife. His employment misconduct occurred during a two-month timespan. There is significant evidence that he has performed well at work after his employment with Company A, and there is no evidence that he has engaged in any misconduct. I find that MC ¶ 17(c) fully applies to SOR ¶¶ 1.a, 1.e, and 1.f, and I find for Applicant with respect to those SOR allegations.

I have already found for Applicant with respect to any SOR allegations that I found to be unsubstantiated or from a source of questionable reliability, and I have explained why I found those that remain have been sufficiently proven. MC ¶ 17(f) does not apply to the remaining SOR allegations.

Applicant's deliberate omission and failure to include detrimental information in the 2022 SCA and the CI Interview are not mitigated. This conduct is not minor, as deliberately omitting or falsifying required information during the security clearance process strikes at the heart of the process, which relies on candid and honest reporting. There is insufficient evidence that he made a prompt, good-faith effort to correct his omission, concealment, or falsification before being confronted with the facts. Instead, at the hearing, he continued to attempt to justify his failure to report required information with reasons that lacked believability. These continued incredible justification attempts

mean he has also failed to show that he acknowledged his dishonest behavior. None of the personal conduct mitigating conditions apply to the allegations in SOR ¶¶ 1.g and 1.h.

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 Guideline E in my whole-person analysis. I have considered Applicant's honorable military service, including in a combat zone, and his positive character-references. Overall, I find that he has not mitigated the Guideline E security concerns as I have doubts regarding his reliability, trustworthiness, and good judgment.

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 E:	AGAINST APPLICANT
Subparagraphs 1.a-1.f:	For Applicant
Subparagraphs 1.g and 1.h:	Against Applicant
Subparagraph 1.i:	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.

Benjamin R. Dorsey
Administrative Judge