



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



In the matter of: )  
)  
) ISCR Case No. 14-03931  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Braden Murphy, Esq., Department Counsel  
For Applicant: *Pro se*

04/02/2015

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant mitigated the Government’s security concerns under Guideline G, alcohol consumption. Applicant’s eligibility for a security clearance is granted.

**Statement of the Case**

On October 16, 2014, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline G, alcohol consumption. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

Applicant answered the SOR on October 30, 2014, and requested a hearing before an administrative judge. The case was assigned to me on February 5, 2015. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on February 19, 2015. I convened the hearing as scheduled on March 11, 2015. The

Government offered exhibits (GE) 1 through 8 and they were admitted into evidence without objection. Applicant testified and offered Applicant's Exhibits (AE) A through D, which were admitted into evidence without objection. The record was held open until April 1, 2015, to allow Applicant to submit additional documents. AE E through G were offered and were admitted into evidence without objection.<sup>1</sup> DOHA received the hearing transcript (Tr.) on March 18, 2015.

### **Findings of Fact**

Applicant admitted all of the SOR allegations. After a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact.

Applicant is 34 years old. He earned a bachelor's degree in 2003. He began work with his current employer in 2005. He married in 2011 and has two children under the age of three. He has held a security clearance since 2010.<sup>2</sup>

Applicant has a history of alcohol-related incidents dating from 2001 until 2006. He consumed alcohol, at times to excess and to the point of intoxication and blackouts from 1996 to 2006.

In 2001 Applicant was charged with being a minor in possession of alcohol and using false identification. He was fined. In February 2005 he was arrested and charged with driving under the influence of alcohol (DUI) and stopping, standing, or parking in the roadway. He was found guilty and sentenced to 60 days in jail, which was suspended, and he was placed on probation for 12 months and fined.

In 2004 and 2005, Applicant was terminated from jobs due to repeated tardiness caused by his alcohol consumption. He was arrested in October 2005 for DUI. He was found guilty and sentenced to 30 days in jail, which was suspended, placed on probation for two years, and fined.

Applicant entered inpatient treatment for alcohol dependency in March 2006. He was diagnosed as alcohol-dependent. He completed inpatient treatment and attended intensive outpatient treatment until April 17, 2006. He then enrolled in a continuing after care program to support maintenance of a sober lifestyle. In 2007, he was denied a security clearance by DOHA, in part due to his alcohol consumption, alcohol-related arrests and alcohol treatment, and because his relatively short period of sobriety. In 2008 he reapplied for a security clearance. Due to administrative delays he was eventually granted a security clearance in January 2010. At that time, he had maintained complete sobriety since he began treatment. Applicant regularly attended Alcoholics Anonymous (AA) from 2006 to 2011 and made lifestyle changes to ensure the maintenance of his sobriety. He indicated that he got his life back on track. He

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<sup>1</sup> Hearing Exhibits I and II are Applicant's email correspondence forwarding the additional exhibits and Department Counsel's memorandum.

<sup>2</sup> Tr. 27-30.

believed his problems with alcohol were due to his unmanaged addiction as well as a level of immaturity. He continued his sobriety until February 2011.<sup>3</sup>

Applicant made a conscious decision to resume consuming alcohol in February 2011 when he became engaged. He stated his decision was based on two reasons. First, he had become engaged and entered a new phase of his life and he wanted to participate in some of the social and celebratory festivities that usually involved toasting and the consumption of alcohol. He wanted to share these activities with his fiancée. She drank alcohol in moderation. Secondly, he believed he had attained a level of self-confidence and would not resort to old habits. He stated that after years of sobriety and attending AA he believed he had built a tool set that allowed him to identify risk and analyze the character defects that would cause him to return to abusing alcohol. He felt comfortable with his ability to drink responsibly. He told his fiancée before they were engaged about his past alcohol problems and she was aware that he attended AA.<sup>4</sup>

Applicant did not have a sponsor during his last year of total abstinence. He stopped attending AA sometime in 2011. He admitted he knew he was an alcoholic. He stated when he resumed consuming alcohol he drank one to three drinks during a celebratory event and the same amount during a ballgame, sporting event, or family gathering. He estimated that he consumed alcohol about once every three to four months until approximately July 2014 when he decided to abstain. He never consumed more than three drinks at a time during that period. He has not been intoxicated since 2006 and does not drive after drinking alcohol. His wife stopped consuming alcohol while she was pregnant and has continued her abstinence. Applicant stated that she trusted his decision at the time to resume consuming alcohol.<sup>5</sup>

Applicant resumed participating in AA in July 2014 because of the stress associated with a new baby about to be born (September 2014). He likes to be in control and AA provided him support in maintaining control, relieving stress, and attaining a sense of serenity that he did not have when he was not participating. When he participates in AA he feels better. He attends one to three meetings a week and has a sponsor. He is working the 12-step program. He admitted he is powerless over alcohol. He confided to his wife that he has resumed attending AA. She is supportive of his attendance and his abstinence.<sup>6</sup>

Applicant's wife provided a statement. She holds a top secret security clearance and is aware of the responsibility that comes with protecting classified and sensitive information. She believes Applicant also understands this responsibility and takes it very seriously. She is aware of Applicant's past problems with alcohol. She believes he has

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<sup>3</sup> Tr. 31, 38, 63-64; Answer to SOR.

<sup>4</sup> Tr. 17, 31, 36, 41, 58.

<sup>5</sup> Tr. 38, 43, 47-58.

<sup>6</sup> Tr. 17, 33, 55-58.

transformed his life. He has a family that he cares for and loves and a profession he works hard at daily. She and Applicant have discussed his consumption of alcohol and have decided that there is no need to chance even the perception that those habits could or would return. She is happy Applicant has renewed his participation in AA and fully supports his involvement. She believes he will continue to maintain his sobriety and actively participate in AA meetings and the program.<sup>7</sup>

Applicant's sponsor provided a statement. He has known Applicant for nine years through AA. He believes Applicant is an honest and intelligent man with a sincere desire to improve. He noted Applicant attended AA regularly from 2006 to 2010 and maintained sobriety. He acknowledged Applicant stopped attending in 2011 and started consuming alcohol. Since July 2014 Applicant resumed regular attendance and is an active participating member. He and Applicant are working the 12-step program. Applicant has discussed with him the issue with his security clearance. Applicant affirmed with his sponsor that he must stay on the path of sobriety. His sponsor believes Applicant's commitment to sobriety.<sup>8</sup>

Applicant did not have any alcohol-related incidents after he resumed alcohol consumption in February 2011. He stated alcohol is not important to him. In the last eight months he has consumed alcohol twice, in August and December. He reported his use to his sponsor. He believes he is different than he was nine years ago. He now has his life together. He does not need alcohol. He realizes he does not have to hit rock bottom for the AA program to work. He keeps coming back to the realization that he needs to abstain from alcohol consumption.<sup>9</sup>

Applicant testified that he understands the importance of total abstinence and its impact on his job and life. He has fully committed to the AA program. He testified that he will abstain from all alcohol consumption. He is confident that he will remain sober by attending AA and maintaining contact with his sponsor. He acknowledged there was a difference between abstaining from alcohol consumption and embracing the AA program. He believes he has now embraced the program. He stated he has too much to lose to continue drinking even infrequently. He believes his lifestyle reinforces abstinence, and he is confident that he will continue to be successful in maintaining his sobriety.<sup>10</sup>

Applicant provided a diagnosis from a licensed professional counselor and substance abuse professional. The diagnosis was based solely on information provided by Applicant to the counselor and is consistent with the facts stated above. The counselor indicated Applicant met the criteria for a diagnosis of alcohol dependence,

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<sup>7</sup> Tr. 40, 83; AE G.

<sup>8</sup> AE F.

<sup>9</sup> Tr. 67-75.

<sup>10</sup> Tr. 67-72, 81-82.

moderate, in early remission (DSM IV 303.90). The counselor confirmed that Applicant acknowledged he is an alcoholic, and cannot drink in a controlled manner, and that his goal is total abstinence.<sup>11</sup>

Applicant provided character statements that were considered during his previous security clearance hearing attesting to his performance and character. He was respected by his peers and managers and considered a role-model employee.<sup>12</sup> His current program manager praises his performance and stated Applicant has earned the reputation as the “gold standard.” He is a valued employee who is considered trustworthy and the consummate teammate.<sup>13</sup>

## **Policies**

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(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 access to classified information will be resolved in favor of 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.”

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<sup>11</sup> AE E.

<sup>12</sup> AE C and D.

<sup>13</sup> AE B

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 Executive Order 10865 provides that 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 G, Alcohol Consumption**

AG ¶ 21 expresses the security concern for alcohol consumption:

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 all of the disqualifying conditions under AG ¶ 22 and the following is 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 whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

(b) alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

(e) evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program; and

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program.

Applicant was convicted of DUI twice in 2005. He was terminated from two different jobs for tardiness caused by his consumption of alcohol. He was diagnosed as alcohol dependent in 2006 while an inpatient and outpatient for substance abuse treatment. Applicant completed the program, participated in aftercare and abstained from alcohol consumption until 2011 when he resumed drinking alcohol. The above disqualifying conditions apply.

I have also considered all of 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 good judgment;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser); and

(d) the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant's was diagnosed in 2006 and again in 2015 as alcohol dependent. The later diagnosis concluded his alcohol dependence was in remission. His last alcohol-related incident occurred in 2006. He completed alcohol rehabilitation treatment and aftercare in 2006 and maintained absolute abstinence until 2011. It appeared Applicant had put his life back on track. He attended AA regularly and had a sponsor. In 2011, he began to drink infrequently. He stopped attending AA. His explanation was that he wanted to participate in celebrations, and he thought he would not fall back into old habits. There is no evidence Applicant's alcohol resumption has caused any problems at home or at work. However, in July 2014 he went back to AA and now has a sponsor. He understands he cannot be a casual drinker. Applicant has recommitted himself to the AA program, attending meetings one to three times a week, working with a sponsor, and total abstinence. He believed in the past that he could resume drinking alcohol in moderation, but understands now that he cannot.

Applicant alcohol consumption was not infrequent and did not happen under unique circumstances. He was abstinent for five years when he resumed consuming alcohol. He acknowledged his alcoholism and he is actively participating in AA and

working the program. He has a sponsor and has established a period of abstinence, albeit short. He completed both inpatient and outpatient rehabilitation programs and aftercare. He received a favorable prognosis of remission from a licensed professional counselor. AG ¶ 23(a), ¶ 23(b), and ¶ 23(d) only partially apply because it has only been a few months that Applicant has been totally abstaining from alcohol consumption.

### **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(a):

- (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 G in my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under that guideline, but some warrant additional comment.

Applicant is 34 years old. He is married and the father of two small children. He admittedly is an alcoholic. Applicant was candid and honest when he was questioned. He took full responsibility for his conduct and did not attempt to minimize his actions. He was remorseful about his past. He changed his life dramatically since 2006. He is doing well in his career. Unfortunately, he began drinking alcohol, albeit infrequently, in 2011. He did not have any incidents related to it, but it has raised questions regarding his security clearance eligibility due to his alcohol dependence and his judgment to resume using alcohol. Applicant credibly testified that he returned to AA in July 2014, has a sponsor and is working the AA program. Most importantly, he fully understands that he cannot drink alcohol under any circumstances. His alcohol dependence is in remission and, he credibly testified that he is committed to total abstinence. Applicant abstained before and did not drink for five years before resuming alcohol consumption. The question is does he now accept that he cannot drink alcohol again. I believe Applicant was sincere and reflective in understanding the importance of total commitment to abstinence. He grasped the gravity of the impact of failing to abstain. He has the

support of his wife and his sponsor. I understand that it has only been a few months since his last drink. I believe Applicant will be successful in living an alcohol-free life. I found his testimony compelling and believable. Overall, the record evidence leaves me with no questions or doubts about Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising under the alcohol consumption guideline.

### **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 G: FOR APPLICANT

Subparagraphs 1.a-1.h: For Applicant

### **Conclusion**

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

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Carol G. Ricciardello  
Administrative Judge