

Applicant's SOR alleges several concerns arising from Applicant's abuse of alcohol. In 2014, an employer reprimanded him for showing up at work hungover and smelling of alcohol. A year later, the employer again reprimanded Applicant for excessive tardiness due to alcohol consumption.

In late 2016, Applicant was on a temporary duty assignment overseas. While there, he would consume alcohol with fellow employees and on the date in question met a foreign woman at a bar. Applicant and the woman consumed alcohol together and later that night engaged in sexual relations. The next day, Applicant reported late to work and smelled of alcohol. Applicant did not report this foreign contact to his employer. Upon discovery of Applicant's conduct, his employer gave him one more chance to modify his behavior.

In mid-2017, Applicant went to a bar in the U.S., where he consumed between 8 to 10 drinks, including beer, mixed drinks, and shots. Later, while driving himself and his companions home, Applicant was in a traffic accident in which he struck a car from behind while he was travelling about 45 mph. Subsequent breathalyzer testing yielded a result of .195%. Pleading no contest, Applicant was convicted of DUI with property damage and sentenced to 12 months supervised probation, fined, and assessed court costs. He was also required to undergo alcohol treatment and complete 50 hours of community service. Applicant was terminated from employment due to his issues with alcohol.

Applicant completed his court-ordered alcohol treatment, his counselor diagnosing him with Alcohol Dependency, sustained remission. The counselor stated that Applicant's prognosis was good if he was involved in a support system such as Alcoholics Anonymous but fair if he was not involved in a support system. The counselor told Applicant that if he wished to follow up with group treatment he could do so at no charge. Applicant testified that he modified his drinking habits by not consuming alcohol every day, "but he drinks a couple of times a week and has between 8 and 12 beers at a time." Decision at 4. Applicant stated that he does not drink to intoxication while having custody of his minor child. Applicant has close family relations who are or were alcoholic, and he has lost a friendship due to his continued drinking. He has not participated in alcohol counseling since completing his court-ordered treatment. He testified at the hearing that he now intends to abstain from drinking and to attend counseling.

The Judge noted the extent of Applicant's alcohol problems and his failure to have attended counseling beyond his court-ordered sessions. She stated that Applicant continues to abuse alcohol despite its negative impact upon him and his various relationships.

I have considered Applicant's history of alcohol abuse to include his multiple incidents at work; incidents away from work; habitual drinking; diagnosis of Alcohol Dependent, in remission; court-ordered treatment; opportunity to attend counseling free of charge; multiple declarations that he modified his drinking habits after each incident; multiple declarations that he was seeking counseling; and his most recent declaration that he would abstain from drinking. Although not alleged, I have also considered the risks he willingly takes when consuming alcohol such as driving, caring for his young child, and having intimate contact with a foreign

national when he was intoxicated holding a security clearance¹ . . . He has not taken the necessary steps to address his problem with alcohol, despite repeatedly promising to do so. I cannot find that there are changed circumstances or that he has demonstrated successful rehabilitation. I have considered that he has not had an alcohol-related incident since his DUI arrest and that is some mitigation, but it is insufficient to conclude that his behavior was infrequent, happened under unusual circumstances and is unlikely to recur. [Decision at 9-10.]

Discussion

Applicant contends that the Judge failed to consider, or that she mis-weighed, significant record evidence, including the absence of alcohol incidents since 2017, his completion of court-ordered alcohol counseling, and his evidence of modified consumption. He argues that continued counseling beyond that ordered by the court was not formally recommended and that the Judge extended too much weight to his having failed to take advantage of that opportunity. He also argues that the Judge erred in concluding that he had not demonstrated changed circumstances despite the evidence cited above. We have considered Applicant's appeal arguments in light of the record evidence. The Judge made findings about the issues Applicant has raised and she discussed them in her analysis. We interpret the Judge's challenged comment to mean that Applicant has not shown changes in circumstances sufficient to demonstrate rehabilitation, not that there have been no changes at all in his conduct. For example, his evidence that he now drinks substantial amounts of alcohol fewer times a week describes a change that a reasonable person could find far short of that necessary to mitigate SOR concerns rooted in alcohol dependency. Applicant has advanced an alternative interpretation of the record, which is not enough to show that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. Moreover, Applicant has not rebutted the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 21-01236 at 3 (App. Bd. Oct. 31, 2022). We have given due consideration to the cases that Applicant has cited, both from the Hearing Office and from the Appeal Board. However, each case must be decided upon its own merits. The cited cases are not sufficient to undermine the Judge's analysis and conclusions. *Id.*

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Encl. 2, App. A ¶ 2(b): "Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security."

¹ The Judge noted that non-alleged conduct can be considered on such issues as a credibility determination, the applicant's case for mitigation or rehabilitation, and a whole-person analysis.

Order

The Decision is **AFFIRMED**.

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Member, Appeal Board