

Date: April 12, 2023

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In the matter of: )  
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Applicant for Security Clearance )  
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**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro Se*

The Department of Defense (DoD) declined to grant Applicant a security clearance. On July 16, 2021, DoD issued a statement of reasons (SOR) advising Applicant of the basis of that decision—security concerns raised under Guideline I (Psychological Conditions) and Guideline G (Alcohol Consumption) of DoD Directive 5220.6 (January 2, 1992, as amended) (Directive). Applicant requested a hearing. On February 15, 2023, after the hearing, DOHA Administrative Judge Wilford H. Ross denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Under Guideline I, the SOR alleged that Applicant has experienced suicidal ideations since 1993 and attempted suicide on multiple occasions between 1996 and 2014; that he was involuntarily hospitalized and received both inpatient and outpatient treatment in 1993 and 1994 after suicidal ideations and auditory hallucinations, and that he was diagnosed at that time with major depressive disorder with psychotic features; that he was hospitalized again in 1996 after a suicide attempt; that he received treatment from 1996 to 2019 for diagnoses that included major

depressive disorder, psychosis, suicidal ideations and attempts, post-traumatic stress disorder, and alcohol dependence; and that he was evaluated in April 2020 and diagnosed with major depressive disorder, post-traumatic stress disorder, and alcohol use disorder. Under Guideline G, the SOR alleged the diagnoses of alcohol dependence and alcohol use disorder; that he had previously been referred for alcohol treatment by providers; and that Applicant continued to consume alcohol despite his diagnosis and referral for treatment.

The Judge found favorably for Applicant on the Guideline I allegation that he was hospitalized in 1996 and adversely on the remaining Guideline I and Guideline G allegations. On appeal, Applicant argues that the Judge erred in his findings of fact and misapplied the mitigating conditions. Consistent with the following, we affirm.

**Judge's Findings of Fact:** The Judge's findings are summarized below, in pertinent part.

Applicant is in his late forties and divorced. He served in the military from 1993 to 1994 and was honorably discharged. Applicant was employed by a defense contractor between 2003 and 2015 and held a security clearance without incident. He has been employed by another defense contractor since 2016.

Applicant has suffered from "severe and chronic depression for approximately 30 years." Decision at 3. His symptoms first emerged while he was in military training. Applicant was hospitalized for several months at a military medical facility and then discharged from the service. During that initial period, his depression manifested itself in auditory hallucinations and incidents of self-harm.

Since 1996, Applicant has been treated at Department of Veterans Affairs (VA) facilities for various mental health issues, including major depressive disorder, psychosis, suicidal ideations and attempts, post-traumatic stress disorder, and alcohol dependence. The VA records in evidence indicate that Applicant has suffered from suicidal ideation for many years. Applicant made suicidal gestures at least five times between 1992 and 2014, but he testified that he has not made any suicidal gestures since 2014. He acknowledged continued suicidal thoughts until at least 2020.

Although Applicant's treatment at the VA continues to the present, the records reflect gaps that ranged from months to years. His treatment at the VA has included medication therapy, but he has repeatedly discontinued treatment over the years due to severe side effects.

Applicant has consumed alcohol since 2006 and occasionally has engaged in binge drinking. In 2010, he would drink a bottle of liquor approximately every two weeks when depressed. He testified that he last drank what he considers a binge amount of alcohol in early 2022. On at least two occasions, Applicant consumed alcohol and pills in suicide attempts. On other occasions, Applicant would engage in binge drinking when having obsessive thoughts about suicide. Those incidents continued through at least 2014.

Applicant admitted that the VA recommended in 2019 that he attend alcohol treatment. He declined because of work-related concerns and concerns related to a prior psychiatric

hospitalization. Applicant also admitted that providers may have recommended treatment previously, in approximately 2016. He testified that he does not believe he has an alcohol problem.

In April 2020, Applicant was evaluated by a DoD mental health consultant, who interviewed Applicant, conducted screening tests, and reviewed his mental health records. The psychologist diagnosed major depressive disorder, recurrent, in partial remission; post-traumatic stress disorder; and alcohol use disorder, mild. The psychologist gave Applicant a guarded prognosis for full recovery from his depressive disorder and his alcohol use disorder and a fair to good prognosis for full recovery from PTSD symptoms. He concluded that:

Based upon the available information, [Applicant] does evidence a material defect in stability due to his chronic mood instability, chronic and repeated maladaptive use of alcohol [binge drinking] without follow-through on recommended alcohol treatment, minimal improvement in his major depressive disorder and PTSD diagnosis since 1996, intermittent adherence to mental health treatment regimen, and lifetime and recent history of suicidal ideation and multiple suicide attempts. There is a potential security concern that he is not actively addressing his co-occurring mental and substance use disorders. Of particular concern is the recent suicidal ideation and lack of help-seeking as evidenced by not resuming mental health treatment since November 2019 (last therapy session). [*Id.* at 5, quoting GE 6 at 9–10.]

VA records confirm that Applicant met weekly or bi-weekly with a mental health team from December 2020 through August 2021 and from May 2022 to at least July 2022. Upon Applicant’s request, his VA psychologist submitted a letter in August 2021, which confirmed his active participation in treatment, his attendance at a 2021 group treatment program, and his subsequent individual treatment. She stated that Applicant “was always responsive to treatment suggestions and willing to implement new strategies” and that she believed Applicant was “absolutely motivated to continue mental health treatment.” *Id.* at 6, quoting SOR Response, Attachment E.

**Judge’s Analysis:** The Judge’s analysis is quoted below in pertinent part.

Applicant has been suffering with severe depression for many years. His testimony, and the available medical records, show a person who has striven mightily to get control of his emotional problems. He has used the VA over the years to assist him, and the records confirm that he has, in the main, followed treatment recommendations and had successful therapy. Looked at as a whole, it is clear that his mental health and depression has improved dramatically over the years. In particular, there is evidence that it has improved since the interview with the DoD mental health consultant in April 2020.

. . .

Based on the totality of the available evidence, I find that there is no indication of a current problem. That has been true for about two years. . . .

However, that is not the end of the discussion. The records show that Applicant has not been consistent with his VA care over the years. He is primarily compliant, particularly recently. His psychologist says he is motivated to continue treatment, but that does not amount to a favorable prognosis as required by the Directive. . . . [T]here is not a current mental health finding that the previous condition is under control or in remission and has a low possibility of recurrence or exacerbation. The statement by Applicant's current psychologist, while helpful, does not meet the requirements of the guideline.

Applicant is highly commended for all he has done to improve his mental health over the years. Once again, it is obvious that he has showed tremendous improvement. However, the strictures of the Guidelines as written require more from Applicant in terms of consistency of treatment and a current and favorable prognosis that rebuts the current report by the Government's mental health consultant. Given the current state of the record, I cannot find that Applicant has sufficiently mitigated the security concerns raised by the evidence in this case.

. . .

[Regarding the Guideline G allegations,] [n]one of [the] mitigating conditions was established by the evidence in this case. A review of Applicant's medical records indicate that alcohol has been a problem in his life. During his younger days it was involved in several cases of attempted suicide or suicidal ideation. He admitted that he still uses alcohol as a means to self-medicate during times of stress or depression. [*Id.* at 11–13.]

## **Discussion**

On appeal, Applicant challenges the Judge's finding that Applicant made at least five suicidal gestures and his reference to "several suicide attempts," asserting instead that there "were three total attempts occurring in 1995 or 1996, 2005, and 2013." Appeal Brief at 2, 10. Applicant highlights that "remembering dates [is] difficult due to the intense nature of these situations." *Id.* at 2. However, the VA medical records support the Judge's findings, as they document three additional attempts or gestures in 2012 and 2014, as reported by Applicant to his mental health providers close in time to the events. GE 6 at 5; GE 9 at 27, 45, 79.

Applicant also takes issue with the evaluation report prepared by Government's psychologist in at least two regards. First, he highlights that the report is from April 2020 and of limited value in assessing his current mental health state. Second, he challenges the psychologist's conclusions regarding his alcohol consumption and the Judge's reliance upon those conclusions. However, Applicant did not object to the admission of the psychological evaluation into evidence at the hearing. Tr. at 11–14. His challenge on appeal does not go towards the admission of the psychological evaluation into evidence, but rather to the weight it should be given. *See, e.g.*, ISCR Case No. 18-02536 at 2 (App. Bd. Aug. 1, 2019). In this regard, we note that Applicant admitted to the related allegations in the SOR (*i.e.*, that he had been diagnosed with alcohol dependence during VA treatment and with alcohol use disorder by the evaluating psychologist). In addition to

the Applicant's admissions and the psychologist's evaluation, the Government presented extensive VA mental health records in support of the allegations.

Once the allegations had been proven by Applicant's admissions and record evidence, Applicant was responsible for presenting evidence to rebut, explain, extenuate, or mitigate the resulting security concerns. Directive ¶ E3.1.15. Applicant argues that he has done so—that he mitigated by demonstrating voluntary and ongoing compliance with a treatment plan and submitting his treating psychologist's letter. The Judge, however, explicitly considered these efforts at mitigation and concluded that they were at this point insufficient—that the guidelines require a longer period of consistent treatment and that the statement by his current psychologist did not amount to a favorable prognosis as required by the Directive. Decision at 11–12. None of Applicant's arguments are sufficient to show that the Judge weighed the psychological evaluation or any other record evidence in a manner that was arbitrary, capricious, or contrary to law. *See, e.g.,* ISCR Case No. 18-02536 at 2.

Applicant failed to establish that the Judge committed any harmful error or that he should be granted any relief on appeal. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on the record. “The general standard is that a clearance may be granted only when ‘clearly consistent with 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 national security.”

### **Order**

The decision is **AFFIRMED**.

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

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

Signed: Allison Marie  
Allison Marie  
Administrative Judge  
Member, Appeal Board