

Date: August 7, 2023

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Applicant for Security Clearance )  
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USAF-C-No. 23-00306-R

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

*Pro Se*

On September 21, 2022, the Department of Defense (DoD) issued a statement of reasons (SOR) pursuant to DoD Manual 5200.02 (Apr. 3, 2017, as amended) (DoDM 5200.02) advising Applicant that his conduct raised security concerns under Guideline G (Alcohol Consumption), Guideline I (Psychological Conditions), and Guideline E (Personal Conduct) of the National Security Adjudicative Guidelines (AG).

In November 2022, DoD Consolidated Adjudication Services (CAS) revoked Applicant's eligibility for access to classified information, and he appealed that revocation under the provisions of DoDM 5200.02. On December 2, 2022, Under Secretary of Defense (Intelligence & Security) Ronald Moultrie issued a memorandum requiring that DoD civilian or military personnel whose clearance eligibility was revoked or denied between September 30, 2022, and the date of that memorandum be provided the opportunity to pursue the hearing and appeal process set forth in DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). As a result of Secretary Moultrie's memo, Applicant was given the opportunity to receive the process set forth in the Directive, and he elected that process. On June 13, 2023, Defense Office of Hearings and Appeals Administrative Judge Roger C. Wesley denied Applicant's request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

## **Judge's Findings of Fact and Analysis**

Applicant, in his early 50s, served in a Reserve and then a National Guard capacity from 1996 to 2012, receiving honorable discharges from both. He has been a civilian employee of the military since late 2021. The SOR alleged concerns stemming from Applicant's history of alcohol use. Specifically, Applicant was arrested in 2010, 2017, and 2018 for charges including Discharging a Weapon in City Limits, Injury to Property, Possession of a Firearm While Intoxicated, Assault, Harassment, Crimes Against Person, Making a False Report, Trespassing, Burglary, and public order crimes, all of which occurred while he was intoxicated. Additionally, Applicant was terminated from his employment as a defense contractor in 2017 following an incident that also occurred while he was intoxicated. In consideration of the foregoing and in conjunction with his request for security clearance, Applicant participated in a mental health evaluation in July 2022. The evaluating psychologist opined that, based on discrepancies between his self-reporting and available records, Applicant was not candid with information regarding his alcohol use history. Applicant's medical records reflected a history of alcohol use and psychological issues, including suicidal ideations and behaviors, and diagnoses of Alcohol Use Disorders and Depressive Disorder. When questioned about the inconsistencies, the psychologist found that Applicant provided insufficient information to clarify or explain the discrepancies and downplayed the significance of past events.

The Judge held that the record clearly evinced "Applicant's succession of abusive drinking incidents in 2017 and 2018" and lacked any corroborating support for his claims to have abstained from alcohol since 2020. Decision at 10. Moreover, the record contained insufficient evidence regarding Applicant's pre-2017 drinking practices to assess his risks of recurrence. The Judge concluded that Applicant's track record of alcohol-related incidents creates continuing security concerns over risks of recurrence, which remain despite Applicant being "credited with continuing sobriety by his own substance abuse counselor and the director of his church support group." *Id.* Additionally, the lack of favorable mental health evidence, such as an updated diagnosis and prognosis or documented follow-up counseling with a credentialed mental health professional, weakened Applicant's claims of improvement. The Judge found against Applicant on all allegations and, for the reasons stated below, we affirm.

## **Discussion**

On appeal, Applicant largely reiterates the same arguments and explanations he already offered regarding his criminal charges, alcohol consumption, and mental health evaluation. For example, he argues that the 2022 mental health evaluation included incorrect information, namely that Applicant had a "history of recurrent suicidal ideations [and] suicidal behaviors." Government Exhibit 3 at 1. The psychologist relied on Applicant's Veterans Affairs treatment records to reach this finding for the evaluation. *Id.* Applicant avers, however, that the only incident that could be interpreted as a suicidal gesture occurred in 2011, that he discussed that lone incident with the psychologist, and that he has never otherwise expressed or acted on an intention to commit suicide. Applicant previously addressed this disagreement with the psychologist's finding in his response to the SOR and again at hearing. *See* Tr. at 31-33. There is a presumption that the Judge considered all of the record evidence, which would include Applicant's rebuttal to the psychologist's finding, and Applicant's belief that the Judge should have weighed the evidence differently is not sufficient

to overcome or rebut that presumption on appeal. *See, e.g.*, ISCR Case No. 01-01642, 2002 WL 32114497 at \*3 (App. Bd. Jun. 14, 2002).

Applicant next challenges the Judge’s finding that he failed to corroborate his sobriety. Appeal Brief at 2. The Judge found that, “With two years of claimed sobriety (inclusive of the three months he has been enrolled in his church group), [Applicant] asked for simple reliance on his word that he has maintained his sobriety sans any corroborating support.” Decision at 6. Contrary to Applicant’s argument, the Judge acknowledged his participation in a ministry support group beginning in late 2022 but found the record evidence lacking to corroborate Applicant’s purported sobriety dating back to 2020. Applicant’s argument in this regard amounts again to a disagreement with the Judge’s weighing of evidence, which is not sufficient to demonstrate that the Judge weighed the evidence or reached conclusions in a manner that is arbitrary, capricious, or contrary to law. *See, e.g.*, ISCR Case No. 06-17409 at 3 (App. Bd. Oct. 12, 2007).

Applicant has not established that the Judge committed harmful error. The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision, and the record evidence supports that the Judge’s findings and conclusions are sustainable. “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). “Any doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security.” AG ¶ 2(b).

### Order

The Judge’s decision is **AFFIRMED**.

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

Signed: Gregg A. Cervi  
Gregg A. Cervi  
Administrative Judge  
Member, Appeal Board

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