



Date: May 30, 2025

In the matter of:

Applicant for Security Clearance

ISCR Case No. 23-02409

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Andrea M. Corrales, Esq., Deputy Chief Department Counsel

FOR APPLICANT

Dan Meyer, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On May 23, 2024, DoD issued a Statement of Reasons (SOR) advising Applicant of the basis of that decision – security concerns raised under Guideline G (Alcohol Consumption), Guideline I (Psychological Conditions), and Guideline H (Drug Involvement and Substance Misuse) of the National Security Adjudicative Guidelines (AG) in Appendix A of Security Executive Agent Directive 4 (effective June 8, 2017) and DoD Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). On March 27, 2025, Defense Office of Hearings and Appeals Administrative Judge Eric H. Borgstrom denied Applicant national security eligibility. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Judge's Findings of Fact and Analysis

Applicant, 38 years old, served on active duty in the U.S. military from 2008 until his honorable discharge in late 2018. He was deployed several times and had several traumatizing experiences during his final deployment, including the suicide of a close friend and mentor in April 2017. Applicant returned from his final deployment in May 2017 and his alcohol consumption

increased significantly. He self-referred to a hospital for alcohol treatment from May to June 2017 and was diagnosed with alcohol use disorder (AUD), severe, and major depressive disorder (MDD), moderate.

During his 2017 hospitalization, Applicant was simultaneously enrolled in a military-based Alcohol and Substance Abuse Program (ASAP), through which he was required to remain sober for a year or face administrative separation. He did not complete ASAP and returned to his military team. The strain of returning to duty prompted him to relapse and consume alcohol in about January 2018. He subsequently engaged in inpatient treatment at a military medical center (MMC) from February to March 2018. To prevent another relapse, Applicant used over-the-counter (OTC) medication to create a dissociative effect to facilitate sleep. Between March and July 2018, he misused an OTC medication and, as a result, he was transported by a unit escort to MMC in April 2018 because he was in a paranoid state and diagnosed with substance induced disorder (paranoid secondary to cough syrup) and substance abuse disorder. Applicant was discharged from the military in September 2018.

Between September 2019 and March 2020, Applicant participated in six inpatient alcohol treatment programs, during which he was diagnosed with alcohol-related conditions including AUD, and was also diagnosed with bipolar II disorder (BPD). In March 2020, he was arrested for driving under the influence and carrying a gun in public while under the influence. His blood alcohol content was measured at 0.32.¹ Applicant served 10 days in jail and was placed on probation for a year.

In December 2020, having experienced significant stress from months of sobriety, the jailtime, seasonal distress from losses, and job stress, Applicant was found walking outside without proper clothing and having developed frostbite and hypothermia. He was hospitalized in a catatonic state, which continued to a significant degree until about the 20th day of hospitalization. Applicant was again diagnosed with AUD and BPD with catatonia.

Between December 2020 and January 2024, Applicant experienced multiple relapses and participated in approximately 11 additional alcohol detoxification and treatment programs. On six occasions in January 2023, he misused OTC medications with the understanding that the medications have dissociative properties that would aid his sleep. During his various periods of treatment, Applicant has received other alcohol- and substance-related diagnoses, and both AUD, severe, and BPD have been reconfirmed several times, as recently as June 2024.

As part of the national security investigation and adjudication process, Applicant participated in three psychological evaluations, beginning in February 2023 with Dr. C, a licensed psychologist, who ultimately diagnosed Applicant with AUD, severe, and MDD, recurrent with a moderate degree of severity. In December 2023 and January 2024, Applicant was evaluated by Dr. F, a licensed psychologist, at the request of his employer based on concerns about possible effects of Applicant's substance abuse on his employment and security clearance. Dr. F concluded that Applicant met the diagnostic criteria for BPD, in full remission and AUD, moderate, noting that

¹ Applicant was also previously charged with disorderly conduct for urinating in public after consuming alcohol in 2009.

Applicant had “not entered a period of sustained remission where he has not abused alcohol for at least one year” and concluding that Applicant may be a higher security risk. Decision at 8 (quoting Applicant Exhibit (AE) E). Finally, in June 2024, Applicant was evaluated by Dr. Y, a licensed psychologist, who concluded that Applicant met the diagnostic criteria for generalized anxiety disorder, ADHD, BPD, in full remission, and AUD, severe, in early remission, among others.

Applicant’s psychotherapist since December 2021 through the U.S. Department of Veterans Affairs, Dr. D, noted that Applicant was discharged from a VA residential recovery center in January 2024 with a favorable prognosis and subsequently completed aftercare for psychiatric and primary care treatment, and that Applicant has continued to see Dr. D through telehealth appointments. Dr. D noted Applicant’s favorable prognosis and concluded that, as of June 2024, Applicant met the diagnostic criteria for AUD, severe, in sustained remission (5 months), anxiety disorder, mood disorder, and BPD, by history.

During the hearing on November 21, 2024, Applicant testified that he last consumed alcohol on December 11, 2023. He admitted that he has struggled to maintain his sobriety during the months of November, December, and January due to certain anniversaries. On the day following his hearing, Applicant participated in a phosphatidyl ethanol test and tested negative for alcohol.

Under Guidelines G and I,² the SOR alleged security concerns arising from the Applicant’s alcohol-related conduct and psychological conditions, all of which he admitted with further explanation in his SOR Response. The Judge favorably noted Applicant’s 11 months of sobriety, establishment of a healthy social circle of support, sincerity in his desire to remain sober, and participation in weekly counseling sessions and favorable prognosis. The Judge also identified Applicant’s “dedication and service to his country, fellow soldiers, family, and community,” that he “credibly, sincerely, and candidly discussed his journey of problematic alcohol consumption, treatment, and relapse, as well as his mental-health conditions,” and that he received positive personal and professional character references for integrity, work ethic, and professionalism. Decision at 19-20. Considering the complete record and circumstances presented therein, however, the Judge opined that Applicant’s “lengthy cycle of consumption, treatment, and relapse requires a more established pattern of abstinence” and concluded that it is not clearly consistent with the interests of national security to grant Applicant national security eligibility. *Id.* at 20.

Discussion

On appeal, Applicant’s Counsel presents an appeal brief that is, in significant part, a treatise about the origins, importance, and complexities of the national security eligibility process. His specific assignments of error, however, include that the Judge failed to completely analyze significant record evidence and made factual findings that were unsupported by the record, and, as a result, failed to properly apply the mitigating conditions and Whole-Person Concept. Applicant also submits new evidence in the form of updates about his continued sobriety and treatment, which the Board may not consider. Directive ¶ E3.1.29.

² The Judge found favorably regarding the Guideline H case, which is not a subject of this appeal.

Challenge to Findings of Fact

Regarding Applicant's military separation, the Judge found that "Applicant was involuntarily separated from the [military] for substandard performance due to substance (alcohol) use. He was honorably discharged." Decision at 3. Applicant challenges this finding as inaccurate because Applicant "submitted for a [Resignation in Lieu of Separation] and was approved" and that the "action was still an Honorable Discharge with a reenlistment code that would allow for reenlistment with waiver." Appeal Brief at 12. In reaching the challenged finding, the Judge cited Government Exhibit (GE) 8, which reflects that Applicant requested Resignation in Lieu of Elimination, with elimination based on substandard performance of duty. Applicant's resignation was accepted on August 24, 2018, with notation that he would be discharged with an Honorable characterization of service. On August 30, 2018, Applicant acknowledged that his Resignation in Lieu of Elimination was approved and, accordingly, he would be involuntarily discharged effective September 28, 2018. Accordingly, the Judge's finding is supported by the record.

Challenges to Judge's Analysis and Conclusions

Applicant's remaining challenges on appeal amount to a disagreement with the Judge's weighing of the evidence. For example, he challenges that the Judge's characterization of his military service did not include that he "deployed . . . to Iraq with distinction and received a Bronze Star Medal for service." Appeal Brief at 13. Applicant also charges that several of the Judge's characterizations of the evidence were incomplete, including that Applicant's mentor struggled with alcohol and substance abuse and helped Applicant get help for himself, and that Applicant's first treatment facility was the same facility his late friend and mentor attended. Applicant's arguments in this regard are unpersuasive.

A judge must consider all the record evidence, and there is a rebuttable presumption that he or she has done so unless the judge specifically states otherwise. *See* DISCR OSD Case No. 90-1596, 1992 WL 388420 at *4 (App. Bd. Sep. 18, 1992). A judge is not required, however, to discuss or even mention every piece of record evidence in reaching a decision. *Id.* Accordingly, error is not demonstrated merely because Applicant can cite to portions of the record evidence that were not specifically discussed by the Judge.

Applicant also argues that the Judge's Guideline I mitigation analysis "fails to note [Applicant's] demonstrated ongoing and consistent compliance with the treatment plan," which he contends shows that his conditions are under control and fully mitigate the security concerns. Contrary to Applicant's argument, the Judge acknowledged "Applicant's compliance with counseling and medication and the favorable prognosis" but concluded that "doubts remain whether Applicant's relapses and episodes of paranoia or questionable judgment will recur." Decision at 17. In support of his conclusion, the Judge cited that Applicant was not taking any medication to treat his MDD or BPD as of the hearing and considered himself to be 'under medicated' at the time, was awaiting a medication management appointment to address psychiatric medications and a treatment regimen, and that, despite his continued treatment with Dr. D and favorable prognosis, Applicant was also in treatment with Dr. D during his multiple relapses in late 2022 through late 2023.

The presence of favorable evidence does not compel a judge to issue a favorable decision. Rather, a judge must weigh the record evidence as a whole and decide whether the favorable evidence outweighs the unfavorable evidence or *vice versa*. See ISCR Case No. 96-0371 at 3 (App. Bd. Jun. 3, 1997). The Judge's conclusion that the favorable evidence presented by Applicant was not sufficient to outweigh or overcome the unfavorable evidence does not mean that he failed to consider the former. To the contrary, the decision reflects that the Judge thoroughly identified and weighed the favorable evidence cited by Applicant on appeal regarding his continued treatment and prognosis but concluded that Applicant needed to "demonstrate a longer period of abstinence from alcohol and without recurring paranoid or bizarre behaviors and adopt a medication and treatment regimen to fully address his MDD, BPD, and ADHD diagnoses." Decision at 17. The Judge's conclusion that Applicant's evidence did not mitigate the security concern was reasonable based on the record before him.

Considering the Judge's written decision in light of the entire record, Applicant's arguments on appeal fail to demonstrate error in the Judge's application of the mitigating conditions or Whole-Person Concept. The Judge acted properly by weighing the record evidence as a whole and his conclusion that Applicant failed to mitigate the Guideline G and Guideline I security concerns was reasonable based on that weighing. Applicant's ability to argue for a more favorable weighing of the record evidence is not sufficient to demonstrate that the Judge weighed the evidence in a manner that was arbitrary, capricious, or contrary to law. See ISCR Case No. 96-0376 at 2-3 (App. Bd. Mar. 6, 1997) (citing *Am. Textile Mfrs. Inst. v. Donovan*, 452 U.S. 490, 523 (1981)).

Hearing-Level Decisions

Counsel relies on hearing-level decisions in unrelated Guideline G and Guideline I cases, seemingly to suggest how the Judge in this case could have differently applied the Whole-Person Concept and mitigating factors. For multiple reasons, this reliance is misplaced. Each case must be decided on its own merits. AG ¶ 2(b). How particular fact scenarios were decided at the hearing level in other cases is generally not a relevant consideration in the Board's review of a case. The decisions that Counsel cites have no direct relationship or unique link to Applicant's case to make them relevant here.

Conclusion

Applicant has not established that the Judge's conclusions were arbitrary, capricious, or contrary to law. The Judge weighed the disqualifying and mitigating evidence and articulated a satisfactory explanation for the decision, which is sustainable on the record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Dept. of 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 decision in ISCR Case No. 23-02409 is **AFFIRMED**.

Signed: Moira Modzelewski

Moira Modzelewski
Administrative Judge
Chair, Appeal Board

Signed: Allison Marie

Allison Marie
Administrative Judge
Member, Appeal Board

Signed: Jennifer I. Goldstein

Jennifer I. Goldstein
Administrative Judge
Member, Appeal Board