

DATE: February 25, 2000

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 99-0393

APPEAL BOARD DECISION

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Chief Department Counsel

FOR APPLICANT

Pro Se

Administrative Judge Richard A. Cefola issued a decision, dated October 19, 1999 in which he concluded it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Applicant appealed. for the reasons set forth below, the Board affirms the Administrative Judge's decision.

The Board has jurisdiction on appeal under Executive Order 10865 and Department of Defense Directive 5220.6 (Directive) dated January 2, 1992, as amended.

Applicant's appeal presents the issue of whether the Administrative Judge's adverse decision is arbitrary, capricious or contrary to law.

Procedural History

The Defense Office of Hearings and Appeals issued a Statement of Reasons (SOR) dated June 11, 1999 to Applicant. The SOR was base on Criterion G (Alcohol Consumption) and Criterion F (Financial Considerations). Applicant requested a hearing which was held on September 22, 1999. On October 19, 1999, the Administrative Judge issued his decision which included formal findings for Applicant under Criterion F-[\(1\)](#) but formal findings against Applicant under Criterion G.

The case is before the Board on Applicant's appeal from the Administrative Judge's adverse security clearance decision.

Appeal Issue

The Administrative Judge's decision below noted that Applicant was "an admitted alcoholic." The Administrative Judge found that Applicant consumed alcohol at times to excess and to the point of intoxication from 1978 to 1989 and again from 1997 to January 3, 1999. During Applicant's periods of excessive alcoholic consumption he engaged in a violent altercation and had three documented arrests for driving under the influence. The Administrative Judge concluded that given Applicant's history and his relatively short recent history of abstinence it was premature to grant Applicant a clearance.

Applicant does not challenge any specific finding of fact or conclusion of law in the Administrative Judge's decision below. Rather, Applicant states: a) that alcoholism is a disease and that he doesn't believe he should be punished for being born with an illness, b) that he is very well educated about the disease, c) that he attends several meetings a week, d) that he takes full responsibility for his actions, e) that he associates with sober people dedicated to working the twelve steps of Alcoholics Anonymous, f) that he knows that a clearance is a privilege, g) that he has been abstinent for several months, and h) that he has several letters of recommendation in the record. The Board construes these arguments taken together as an assertion that the Administrative Judge's decision below was arbitrary, capricious or contrary to law. For the reasons that follow the Board concludes that Applicant has failed to demonstrate that the Administrative Judge's decision was arbitrary, capricious or contrary to law.

The federal government must be able to repose a high degree of trust and confidence in persons granted access to classified information. *Snepp v. United States*, 444 U.S. 507, 511 n.6 (1980). Security clearance decisions are not an exact science, but rather predictive judgments about a person's security suitability in light of that person's past conduct and present circumstances. *Department of Navy v. Egan*, 484 U.S. 518, 528-29 (1988).

Alcohol abuse provides a rational basis for the government to question an applicant's security eligibility. *See, e.g. Cole v. Young*, 351 U.S. 536, 550 n. 13 (1956); *Croft v. Department of Air Force*, 40 M.S.P.R. 320, 321 n.1 (1989). It was entirely proper for the Administrative Judge to consider and rely on Applicant's lengthy history of excessive alcohol consumption and alcohol-related incidents as a rational basis for the Administrative Judge's doubts about Applicant's security eligibility. Applicant's recent history of abstinence (found by the Administrative Judge to be nine months although there is testimony suggesting it was shorter than that) is simply too short to overcome Applicant's over-all history of alcohol abuse.

The Administrative Judge's description of Applicant as "an admitted alcoholic" was an unfortunate choice of words because a reasonable person could infer the Judge was impermissibly basing his decision, in part, on Applicant's status rather than Applicant's history of alcohol abuse. It would have been wrong for the Judge to base his adverse decision on Applicant's status as "an admitted alcoholic." A reading of the Judge's decision in its entirety persuades the Board that the Judge relied on Applicant's overall history of alcohol abuse, not Applicant's status as an alcoholic, to make his adverse security clearance decision.

Conclusion

Applicant has failed to meet his burden of demonstrating error below. Accordingly the Board affirms the Administrative Judge's October 19, 1999 decision.

Signed: Emilio Jaksetic

Emilio Jaksetic

Administrative Judge

Chairman, Appeal Board

Signed: Michael Y. Ra'anan

Michael Y. Ra'anan

Administrative Judge

Member, Appeal Board

Signed: Jeffrey D. Billett

Jeffrey D. Billett

Administrative Judge

Member, Appeal Board

1. Applicant's appeal argument regarding Criterion F need not be addressed by the Board since Applicant won on that matter below and there is no cross appeal by Department Counsel.