

KEYWORD: Alcohol

DIGEST: Applicant is 53 years old and has worked as a senior mechanical designer for a defense contractor since 1994. On occasions between 1971 to at least 2006, he consumed alcohol to excess and to the point of intoxication. In 1999, he was charged with operating a vehicle under the influence of liquor. He was fined, ordered to attend alcohol counseling, and his driver's license was suspended for eight months. In January 2005, he was discharged from a six-week inpatient alcohol rehabilitation treatment program and diagnosed with alcohol dependence and depression. He has mitigated the alcohol consumption security concerns. Clearance is granted.

CASENO: 06-25684.h1

DATE: 09/28/2007

DATE: September 28, 2007

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In re:)	
)	
-----)	ISCR Case No. 06-25684
SSN: -----)	
)	
Applicant for Security Clearance)	
_____)	

**DECISION OF ADMINISTRATIVE JUDGE
JACQUELINE T. WILLIAMS**

APPEARANCES

FOR GOVERNMENT

Eric H. Borgstrom, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is 53 years old and has worked as a senior mechanical designer for a defense contractor since 1994. On occasions between 1971 to at least 2006, he consumed alcohol to excess and to the point of intoxication. In 1999, he was charged with operating a vehicle under the influence of liquor. He was fined, ordered to attend alcohol counseling, and his driver's license was suspended for eight months. In January 2005, he was discharged from a six-week inpatient alcohol rehabilitation treatment program and diagnosed with alcohol dependence and depression. He has mitigated the alcohol consumption security concerns. Clearance is granted.

STATEMENT OF THE CASE

On February 14, 2005, Applicant executed a Security Clearance Application (SF 86).¹ The Defense Office of Hearings and Appeals (DOHA) declined to grant a security clearance and issued a Statement of Reasons (SOR)² on February 15, 2007, detailing the basis for its decision—security concerns raised under Guideline G (Alcohol Consumption) of the revised Adjudicative Guidelines (AG) issued on December 29, 2005, and implemented by the Department of Defense for SORs issued after September 1, 2006. The revised guidelines were provided to Applicant when the SOR was issued.

On March 13, 2007, Applicant responded to the SOR allegations and requested a hearing. Department Counsel indicated the Government was ready to proceed on July 11, 2007. The case was assigned to another administrative judge on July 16, 2007. The case was reassigned to me on August 3, 2007. A Notice of Hearing was issued on August 9, 2007, scheduling the hearing for August 30, 2007. The hearing was conducted as scheduled. At the hearing, the Government submitted exhibits 1-4, and Applicant did not submit any exhibits. The record was kept open to allow Applicant to submit documents, and Applicant's exhibits A-E were admitted into the record without objection. The transcript (Tr.) was received on September 12, 2007.

FINDINGS OF FACT

Applicant admitted all the factual allegations. Those admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, and upon due consideration of same, I make the following findings of fact:

Applicant is 53 years old and works as a senior mechanical designer for a defense contractor since 1994. After high school, he joined the Army and served three years in the Medical Corps. Upon discharge, he served in the Army National Guard (E7) from 1972 to 1975. From 1976 to 1978, he served in the Army Reserve. He retired from military service two years ago after having a heart attack. In 1979, he received a certificate after attending a two-year program at an institute of industrial technology. He was married in October 1979 and divorced in January 2007. He has two adult children.

On several occasions between 1971 to at least July 2006, Applicant consumed alcohol, at times to excess and to the point of intoxication. He first began drinking alcohol at age 17.³ He indicated that at the time “[h]is [Applicant’s] daily consumption was then 1 quart of rum.”⁴

¹Ex. 1 (Security Clearance Application, signed on February 14, 2005).

²Pursuant to Exec. Or. 10865, *Safeguarding Classified Information within Industry* (Feb. 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (Directive).

³Tr. 18.

⁴*Id.*

On February 16, 1999, Applicant was arrested and charged with operating a motor vehicle under the influence of liquor. After consuming about four ounces of brandy, he was driving home and was stopped by the police because the car was swerving.⁵ He pled no contest. He was fined \$500, placed on unsupervised probation, ordered to attend alcohol counseling, and his driver's license was suspended for eight months. His alcohol consumption increased during 1999 because of marital difficulties, which included his wife suffering from a serious mental illness "which lingered for years."⁶

In June 2004, Applicant was arrested and charged with assault of his girlfriend. He had been drinking prior to this arrest. This charge was dismissed.

After the death of his girlfriend in 2004, for about two weeks Applicant drank excessively consuming alcohol to numb his pain and grief. He was treated for depression after her death. He sought help from the Employee Assistance Office at work and they suggested that he enroll in an alcohol treatment program.

Applicant attended alcohol treatment at an institute from December 27, 2004, until January 24, 2005. He was diagnosed with alcohol dependence and depression. These diagnoses were made by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program. He attended both individual and group counseling, which included education groups, therapy groups, and AA/NA meetings every night. At the time of his discharge, his prognosis was positive if he followed through with his discharge plans, including returning to his apartment and returning to his employment, which he accomplished. At least four weeks after rehabilitation, he continued to attend meetings to talk about his alcohol problems.⁷

A witness who is a retired Army chaplain and Brigadier General, with a Ph.D. in clinical psychology, testified about posttraumatic stress syndrome as it related to the events of Applicant's loss of his girlfriend.⁸ Applicant is one of his parishioners and he has been counseling him for about six months about the loss of his girlfriend, which led to his excessive consumption of alcohol.⁹ The witness stated:

So knowing [Applicant's] history, the loss, the depression that he went through, some of the counseling he went through, the counseling that I've done with him, I would say that this was a typical outcome [posttraumatic stress syndrome] for someone who had had that kind of loss.¹⁰

⁵*Id.* at 22.

⁶*Id.* at 23.

⁷*Id.* at 33.

⁸*Id.* at 42.

⁹*Id.* at 66.

¹⁰*Id.* at 45.

During the last six months, Applicant has sought counseling from his pastor and he has a better understanding of why he spun out of control after the death of his girlfriend. Although he has not ceased drinking alcohol, he has modified his behavior to a glass or two of wine a month. He does not believe he will drink and drive again.

Applicant's supervisor wrote a character letter.¹¹ The witness indicated that once Applicant's drinking got out of control, he sought help from the Employee Assistance Office and entered rehabilitation. He stated that:

Since completing the program, [Applicant] has seemed to turn himself around, his attendance has improved, he is on time he is routinely at his desk working, and the quality and quantity of his work has improved. His physical and mental health has improved and he seems to be happier with who he is and what he is doing.

POLICIES

“[N]o one has a ‘right’ to a security clearance.”¹² As Commander in Chief, the President has “the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information.”¹³ The President authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information “only upon a finding that it is clearly consistent with the national interest to do so.”¹⁴ An applicant has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his or her security clearance. The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.¹⁵ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.¹⁶ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.¹⁷

The revised Adjudicative Guidelines set forth potentially disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. Additionally, each security clearance decision

¹¹Ex. C (Supervisor's letter, dated August 30, 2007).

¹²*Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988).

¹³*Id.* at 527.

¹⁴Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960).

¹⁵ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).

¹⁶*Id.*; Directive, ¶ E2.2.2.

¹⁷Exec. Or. 10865 § 7.

must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the adjudicative process factors listed in listed in the Directive and AG ¶ 2(a).

CONCLUSIONS

Alcohol consumption is a security concern because “excessive consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” (AG ¶ 21.)

Applicant has a long history of drinking alcohol that spans more than 30 years. Applicant was arrested in 1999 and charged with operating a vehicle under the influence of liquor. He was fined \$500, placed on unsupervised probation, ordered to attend alcohol counseling, and his driver’s license was suspended for eight months. Moreover, in June 2004, Applicant was arrested and charged with assault of his girlfriend and had been drinking prior to this arrest. In 2004, after the death of his girlfriend, he excessively consumed alcohol as a way of dealing with his grief. Realizing that his drinking was out of control, he talked to the Employee Assistance Office at work and was advised to enroll in an alcohol treatment program. Applicant enrolled in and completed a six-week inpatient alcohol treatment program. He was diagnosed as being alcohol dependent and depressed. Thus, Alcohol Consumption Disqualifying Conditions ¶ 22(a) (*alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent*) and ¶ 22(e) (*evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a member of a recognized alcohol treatment program*) apply.

Various factors can mitigate alcohol consumption security concerns. After consuming alcohol, Applicant was arrested and charged with assault of his girlfriend. His girlfriend died in 2004, and his drinking increased. In that same year, he completed treatment at an inpatient alcohol treatment program and was diagnosed as alcohol dependent and depressed. During the last six months, he has sought counseling from his pastor. Applicant has a better understanding of why he spun out of control after the death of his girlfriend. Although he has not ceased drinking alcohol, he has modified his behavior to a glass or two of wine a month. Moreover, he does not believe he will drink and drive again. Consequently, Alcohol Consumption Mitigating Condition ¶ 23(d) (*the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordant with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program*) apply. Applicant has mitigated the Government’s case.

I have considered all the evidence in the case. I have also considered the “whole person” concept in evaluating Applicant’s risk and vulnerability in protecting our national interests. Applicant has had a drinking history from 1971 to 2006. Applicant testified credibly about his remorse for his 1999 charge of operating a vehicle under the influence of liquor. In 2004, after his girlfriend’s death, he enrolled and completed a six-week inpatient alcohol treatment program. Based on the evidence

of record, it is clearly consistent with the national interest to grant Applicant a security clearance. For the reasons stated, I conclude Applicant is suitable for access to classified information.

FORMAL FINDINGS

Formal Findings for or against Applicant on the allegations set forth in the SOR, as required by Section E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1. Guideline G (Alcohol Consumption):	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Subparagraph 1.b:	For Applicant
Subparagraph 1.c:	For Applicant
Subparagraph 1.d:	For Applicant

DECISION

In light of all of the circumstances in the case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is granted.

Jacqueline T. Williams
Administrative Judge