

KEYWORD: Guideline G

DIGEST: Despite Applicant’s argument to the contrary, the Judge’s whole-person analysis complies with the requirements of the Directive in that she evaluated Applicant’s security-significant conduct in light of the record as a whole. Adverse decision affirmed.

CASENO: 15-03592.a1

DATE: 06/14/2017

DATE: June 14, 2017

In Re:	)	
	)	
-----	)	ISCR Case No. 15-03592
	)	
Applicant for Security Clearance	)	

**APPEAL BOARD DECISION**

**APPEARANCES**

**FOR GOVERNMENT**

James B. Norman, Esq., Chief Department Counsel

**FOR APPLICANT**

Ryan C. Nerney, Esq.

The Department of Defense (DoD) declined to grant Applicant a security clearance. On March 24, 2016, DoD issued a statement of reasons (SOR) advising Applicant of the basis for that decision—security concerns raised under Guideline G (Alcohol Consumption) of Department of Defense Directive 5220.6 (Jan. 2, 1992, as amended) (Directive). Applicant requested a hearing. On March 30, 2017, after the hearing, Defense Office of Hearings and Appeals (DOHA) Administrative Judge Stephanie C. Hess denied Applicant’s request for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge failed to consider

significant record evidence and whether the Judge's adverse decision was arbitrary, capricious, or contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant works for a Defense contractor. He was granted a security clearance in 2003, although two years earlier he had been denied one due to his alcohol consumption. Applicant began drinking to the point of intoxication at age 16. He has been diagnosed with depression and alcohol abuse/dependence and twice with alcohol dependence. In addition, Applicant was charged with DUI in 2011. He acknowledged that drinking had significantly affected his work performance due to missed days of work because of hangovers, denial of his clearance, and a slower rate of working. Drinking also contributed to a divorce after 22 years of marriage. Despite having been diagnosed as alcohol dependent, Applicant continues to drink. In fact, he drank six beers on the Saturday before the hearing. He does not believe that he has a problem with alcohol. Applicant submitted a sworn statement of intent "never to abuse alcohol again," agreeing to an automatic revocation of his clearance should he do so. Decision at 4.

### **The Judge's Analysis**

The Judge cited to the harm that alcohol consumption has wrought on Applicant's life and career. She stated that concerns arising from alcohol dependence can only be mitigated by an appropriate period of abstinence, which Applicant has not chosen to undertake. To the contrary, he contends that he does not currently have a problem with alcohol. In the whole-person analysis, the Judge characterized Applicant's testimony as honest and straight-forward. She cited to his 32 years of employment by a Defense contractor and his reputation for hard work and integrity. However, she concluded that the evidence, viewed as a whole, was not sufficient to mitigate the concerns arising from Applicant's conduct with alcohol.

### **Discussion**

Applicant cites to evidence such as his work record, the length of time since his last DUI, and his having curtailed the amount that he drinks. He argues that the Judge did not consider this evidence and that the whole-person analysis was deficient. Applicant's arguments are not enough to rebut the presumption that the Judge considered all of the evidence in the record. *See, e.g.*, ISCR Case No. 13-00502 at 3 (App. Bd. Mar. 7, 2017). Despite Applicant's argument to the contrary, the Judge's whole-person analysis complies with the requirements of the Directive in that she evaluated Applicant's security-significant conduct in light of the record as a whole. *See, e.g.*, ISCR Case No. 14-06653 at 3 (App. Bd. Nov. 18, 2016).

Applicant has cited to some Hearing Office cases that, he believes, support his effort to obtain a clearance. We give these cases due consideration as persuasive authority. However, Hearing Office cases are not binding on other Hearing Office Judges or on the Appeal Board. *See, e.g.*, ISCR Case No. 15-01416 at 3 (App. Bd. Feb. 15, 2017). The cases that Applicant has cited have significant differences from his own. They are not enough to undermine the Judge's decision.

The Judge examined the relevant evidence and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. “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). *See also* Directive, Enclosure 2 ¶ 2(b): “Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security.”

### **Order**

The Decision is **AFFIRMED**.

Signed: Michael Y. Ra’anan  
Michael Y. Ra’anan  
Administrative Judge  
Chairperson, Appeal Board

Signed: James E. Moody  
James E. Moody  
Administrative Judge  
Member, Appeal Board

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