



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



In the matter of:)
)
) ISCR Case No. 18-01613
)
Applicant for Security Clearance)

Appearances

For Government: Gatha Manns, Esq., Department Counsel
For Applicant: Richard L. Morris, Esq.

02/07/2019

Decision

MURPHY, Braden M., Administrative Judge:

On June 18, 2018, the Department of Defense (DOD) issued a Statement of Reasons to Applicant detailing security concerns under Guideline H (drug involvement and substance misuse).¹ Applicant answered the SOR on July 6, 2018, and requested a hearing. The case was assigned to me on November 13, 2018. The hearing was held as scheduled on December 12, 2018. Applicant and two witnesses testified. The Government submitted one exhibit (GE 1). Applicant submitted Applicant’s Exhibits (AE) A – K, and timely submitted one exhibit (AE L) after the hearing before the record closed on January 3, 2019. All exhibits were admitted without objection. The transcript (Tr.) was received on January 2, 2019. On February 6, 2019, I proposed to the parties that this case was appropriate for a summary disposition in Applicant’s favor. Department Counsel did not object.

¹ This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DOD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the National Security Adjudicative Guidelines (AG), which became effective within the DOD on June 8, 2017.

Applicant is 29 years old. He has worked for his current employer, a defense contractor, since October 2017. He has never had a clearance before. He earned his bachelor's degree in 2014. He has never married and has no children. (GE 1; AE A)

Applicant used marijuana frequently, and also purchased it, after high school and in college (2007-2014). He tried hallucinogenic mushrooms and LSD twice each, also in college. After college, he used marijuana about 20 or 30 times between 2014 and May 2017. (Tr. 39-42, 48-51) His marijuana use was mostly social, though he also used it to alleviate pain from a serious medical condition for a brief period in 2011, before the condition required surgery. Applicant's medical condition is chronic, but he now takes prescription medication for it. (Tr. 54-59)

Applicant fully disclosed his illegal drug use on his August 2017 security clearance application. (GE 1) At hearing, he attributed his social drug use to his attitude towards college.² He testified that being laid off from a job in May 2017 led to a maturation process and a desire to "turn the corner" and "make the right decisions." (Tr. 43) He moved to a new state when he was hired by his current employer. He no longer associates with his college friends. Applicant credibly testified that he no longer has any desire nor any future intent to use marijuana or any illegal drug in the future. (Tr. 44-46) He provided a signed statement of intent not to use illegal drugs in the future, and he acknowledged that any future illegal drug use would be grounds to revoke his security clearance. (AE L)

Applicant presented two strong character witnesses. His direct supervisor, a Naval Academy graduate who hired him and who works with him daily, testified to Applicant's exemplary work performance, his judgment, trustworthiness, reliability and overall suitability for a clearance. A close personal friend said Applicant is honest, trustworthy and extremely respectful towards others. (Tr. 19-37) Several other character references, including family members, lifelong friends, and a former supervisor, all provided strong letters of recommendation in which they attested to Applicant's judgment, trustworthiness, moral character, and suitability for a clearance. (AE A – K)

The disqualifying conditions under AG ¶¶ 25(a) and 25(c) are raised by the evidence. Applicant's marijuana use is relatively recent. However, he disclosed his illegal drug use fully on his SCA, and credibly testified that he has had a significant lifestyle change since his last drug use (including losing his job and moving away from his college environment and to a new state). He has no desire or future intention to use illegal drugs, and understands that to do so is unacceptable for someone entrusted with access to classified information. I find that he has abstained from illegal drug use for an appropriate period, and that he is unlikely to use illegal drugs in the future. The mitigating conditions under AG ¶¶ 26(a) and 26(b) are applicable.

The security concerns over Applicant's illegal drug use no longer create doubt about his current reliability, trustworthiness, good judgment, and ability to protect classified information. In reaching this conclusion, I weighed the evidence as a whole

² Tr. 44 ("I went to college where people vacation, and I treated it like a vacation at the time.")

and considered that the favorable evidence outweighed the unfavorable evidence. I also gave due consideration to the whole-person concept. Accordingly, I conclude that Applicant met his ultimate burden of persuasion to show that it is clearly consistent with the national interest to grant him eligibility for access to classified information. This case is decided for Applicant.

Braden M. Murphy
Administrative Judge