



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



In the matter of: )  
)  
) ISCR Case No. 20-01528  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro Se*

01/18/2022

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**Decision**

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RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the Guideline G, alcohol consumption, Guideline I, psychological conditions, and Guideline E, personal conduct security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On September 11, 2020, the Defense Counterintelligence and Security Agency (DCSA) issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline G, alcohol consumption, Guideline I, psychological conditions, and Guideline E, personal conduct. The action was taken 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 adjudicative guidelines (AG) effective on June 8, 2017.

Applicant provided an undated answer to the SOR and requested a decision based on the written record. The government converted the case and requested a hearing

before an administrative judge. The case was assigned to me on October 25, 2021. After coordinating with Applicant, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on November 8, 2021, scheduling the hearing for December 13, 2021, via Microsoft Teams. I convened the hearing as scheduled. The Government offered exhibits (GE) 1 through 3. Applicant testified and did not offer any exhibits. There were no objections and GE 1 through 3 were admitted into evidence. DOHA received the hearing transcript on December 16, 2021.

### **Findings of Fact**

Applicant admitted all of the SOR allegations. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 51 years old. He attended college, but did not earn a diploma. He was married twice, both ending in divorce. He is in a long-term relationship and lives with his fiancée. They have been together for about 10 years. He has no children. Applicant has worked for his present employer since June 2018. (Transcript (Tr.) 13-15)

Applicant testified that he began drinking alcohol to excess when he was about 30 years old. He would consume alcohol every day. He continued this pattern until about 2010, when he reduced his drinking to three to four beers a day or every other day. He continued this pattern until about 2016. (Tr. 21-23)

Applicant testified that he has been on medication since about 2005 for depression, which he said runs in his family. From 2012 to 2015, he was seen at a mental health clinic for his depression. He was not being seen for his alcohol issues. He began seeing a psychiatrist-psychologist (Dr. G) in 2015. This was the first time his alcohol issues were addressed along with his depression. He had been advised by Dr. G to not consume alcohol while on prescribed medication. He did not follow his Dr. G's advice and continued to consume alcohol. (Tr. 27-30, 39-40)

In January 2016, reacting to the death of David Bowie, Applicant brought alcohol (vodka) to work with him to drink. He said he did not normally bring alcohol to work. Later in the day, he purchased beer and brought it back to the office. He drank the vodka and about 12 beers. He became intoxicated and drove his car, which he crashed into a pole after falling asleep. He was uninjured and his fiancée drove him home. The police were not notified. (Tr. 23-27)

Applicant stated that prior to 2016, he consumed alcohol at work on a couple of occasions. He would bring the alcohol to work with him. He remembered drinking at work one day in the summer of 2015 as a coping mechanism because his mother was in the hospital. He had about three beers. A month later he did the same thing for the same reason. He estimated from 2015 to 2016, he consumed alcohol at work about four times. (Tr. 36-38)

In 2016, Applicant was advised by Dr. G to stop consuming alcohol. Applicant testified that Dr. G referred to him as a “drunk.” He said that this was the first time he was ever told to stop drinking. He said he attempted to abstain, could not, but reduced his consumption. Dr. G diagnosed Applicant with unspecified Alcohol Use Disorder. Applicant consumed alcohol before a couple of his appointments with Dr. G. On one occasion, he was told to wait for transportation to be arranged because it was unsafe for Applicant to drive. He left the office without waiting. Applicant was also seeing a therapist once a month in conjunction with Dr. G. Applicant testified that in 2017 he stopped seeing Dr. G because he did not have a good rapport with him and was unhappy with being referred to as a “drunk” instead of an alcoholic. He also stopped seeing the therapist. Dr. G’s medical notes state that Applicant was terminated as a patient in November 2017, due to a pattern of noncompliance with treatment recommendations, multiple relapses of alcohol abuse, not seeking a 12-step program, not seeking psychotherapy, and leaving the waiting room when mildly intoxicated after agreeing that his fiancée would come pick him up because he should not be driving. (Tr. 27-30, 39-41; GE 3)

Applicant testified that the accident was a wake-up call to him regarding his alcohol abuse. He attempted to stop drinking, but could abstain for only short periods. He continued to consume alcohol daily from 2016 until he started his current job in June 2018. He said he cut back on his daily drinking because it was inconsistent with his employment. He testified he was only drinking on the weekends during this time. Applicant testified that in late 2019, he abstained from alcohol consumption for nine months. He felt his prescribed medication was working, and he was enjoying life. He said he did not plan to abstain from alcohol consumption forever and thought he would resume consumption at some point. In 2021, he resumed consuming alcohol. He testified he drinks on the weekends during football season and perhaps on a few special occasions such as birthdays. He consumes about a six-pack of beer on Saturdays and Sundays with his fiancée. (Tr. 18-20, 27-35)

Applicant testified that in 2018, he began seeing Dr. Z about every two to three months to have his prescriptions refilled for his depression. He was advised by Dr. Z to not consume alcohol while taking the depression medications. Dr. Z would ask him “where his brain was at?” (Tr. 42) He said he was prescribed Antabuse by Dr. Z. He took it for six months and stopped drinking. He said that Dr. Z decided in early 2021 to stop the Antabuse because Applicant was not drinking. Applicant testified that he told Dr. Z that he had resumed consuming alcohol, but it was controlled. He admitted he has attempted to abstain from alcohol consumption on several occasions in the past, but would always resume drinking. (Tr. 15, 41-46)

Applicant testified that he believed in the past he resorted to alcohol use when under stress, but does not do this any longer. He said he is in a different place now than when the security clearance process started. He believes his brain is sharper, and he solves problems better. He is not willing to abstain from alcohol consumption because he enjoys drinking while watching football on the weekends. He said he has been seeing a therapist since mid-2020 about once a month due to his mother’s passing. He consumed alcohol when his mother and sister passed away in 2019 and 2020. He explained, he had

a couple of bad days. During this time, he was drinking about 12 beers on each day of the weekend. (Tr. 16-18, 46-50)

DOD CAF requested a psychological evaluation of Applicant and it was conducted in February 2020 by a licensed clinical psychologist and board-certified neuropsychologist. Applicant told the psychologist that after his 2016 car accident it was a wake-up call and he stopped drinking alcohol completely for a few years, but in the last six months he and his fiancée occasionally have a couple of glasses of wine on the weekends. He said he is not addicted to alcohol anymore. He did not freely report that he had seen his psychiatrist after consuming alcohol. He told the psychologist that he only drank beer. He was confronted with Dr. G's medical records from October 2017, where it was noted he was drinking a fifth of vodka or rum per day. He admitted that he did so briefly after his sister's passing. (Tr. 52-54; GE 2)

The psychologist noted during the evaluation that Applicant was not defensive, but was not forthcoming with information. When directly questioned about information, he never denied the incidents, but seemed to minimize them. During the testing process, she noted that he also was not completely forthcoming in his responses. She indicated that given his response style and tendency to withhold information during the interview unless directly confronted, his test results are unlikely to capture any true psychological conditions and reflect only his own self-description. She noted that his profile indicates poor insight into his history of alcohol misuse, or the difficulties alcohol use has had in his life. His interest in and motivation for treatment is below average compared to adults who are not being seen in a therapeutic setting, and a great deal lower than those in treatment settings. She stated: "This indicates that he is satisfied with himself as he is, and sees little need for changes in his behavior. As such, he is likely to be reluctant to commit to therapy." (GE 2)

The psychologist diagnosed Applicant with Alcohol Use Disorder-Severe; Major Depressive Disorder, Recurrent, Moderate. She found that Applicant continues to consume alcohol and has not undergone treatment for alcohol use disorder. She has concerns that he is a high risk for relapse. She observed that during their interview, Applicant either lacked insight into his problematic alcohol use or was intentionally attempting to downplay his alcohol use. Applicant's prognosis is guarded and his judgment, reliability, and trustworthiness is likely to be impaired. (Tr. 52-54; GE 2)

During his hearing, Applicant admitted that he was not truthful to the psychologist during his interview. He said he was embarrassed to admit his alcohol use. When asked what has changed, he said he is getting older and more honest. He does not think alcohol impacts his judgment, reliability, or trustworthiness. He said he tried Alcoholics Anonymous in 2018, but does not like the religious connotations. He now practices meditation and yoga. (Tr. 52-54)

Applicant consumes alcohol on the weekends with his fiancée. She consumes about the same amount of alcohol as he does. During a typical month during the football season, they will watch games at their house on two weekends and the other two they go

to one of his sisters' houses, which are about ten miles away. Either his fiancée or he will drive home after they have consumed alcohol. Applicant said he will wait about an hour after drinking before driving. He said I'm not super intoxicated, I'm just sort of a little buzzed." (Tr. 58) He admitted he would likely be over the legal limit. When asked why would he risk driving, he said they just want to get home. He estimated he has done this about four or five times. He believes he had an alcohol problem in the past, but no longer does. He does not intend to abstain from alcohol consumption because he enjoys it. He stated that when football season is over, he will stop drinking. However, he intends to resume when the new season starts. I did not find Applicant credible (Tr. 46-47, 54-60)

Applicant testified that he is embarrassed about not being forthright about his drinking. He is stronger now and is not going to let alcohol take over his life. He loves his job and has been taking classes to improve his chances for professional advancement. (Tr. 52-54)

### **Policies**

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision."

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Guideline G: Alcohol Consumption**

AG ¶ 21 expresses the security concerns for alcohol consumption:

Excessive alcohol 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 ¶ 22 describes conditions that could raise a security concern and may be disqualifying. I find the following to be potentially applicable:

(a) alcohol-related incidents away from work, such as driving under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder;

(b) alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, drinking on the job, or jeopardizing the welfare and safety of others, regardless of whether the individual is diagnosed with alcohol use disorder;

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;

(d) diagnosis by a duly qualified medical or mental health professional (e.g. physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;

(e) the failure to follow treatment advice once diagnosed; and

(f) alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder.

Applicant has a long history of alcohol abuse, which includes consuming alcohol at work on multiple occasions, habitually drinking large amounts of alcohol at one time; driving after consuming alcohol and driving his car into a tree. He admitted driving after consuming alcohol when he believed he was over the legal limit after drinking with his fiancée. In 2016, he was diagnosed by Dr. G with Alcohol Abuse Disorder, Unspecified and told to stop consuming alcohol. Applicant continued to consume alcohol. In 2017, he was terminated as a patient by Dr. G due to his noncompliance with treatment recommendations to abstain from consumption and multiple relapses. Additionally, he left the doctor's office after consuming alcohol and failed to wait for transportation, after which his doctor terminated him as a patient. In 2020, Applicant was diagnosed by a duly qualified psychologist, with Alcohol Use Disorder, Severe. The evidence supports the application of the all of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from alcohol consumption. I have considered the following mitigating conditions under AG ¶ 23:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;

(b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;

(c) the individual is participating in counseling or a treatment program, has no previous history of treatment or relapse, and is making satisfactory progress in a treatment program; and

(d) the individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant continues to consume alcohol after he was diagnosed with Alcohol Abuse Disorder and told to abstain. He continues to be irresponsible and drive after he has been drinking, acknowledging he felt "a little buzzed" and was likely over the legal limit. The evidence supports that despite the negative impact and repeated treatment recommendations, Applicant has not changed his behavior and does not intend to do so. He does not believe alcohol impairs his judgment. None of the above mitigating conditions apply.

## Guideline I: Psychological Conditions

The security concern for psychological conditions is set out in AG ¶ 27:

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline. A duly qualified mental health professional (e.g., clinical psychologist, or psychiatrist) employed by, or acceptable to and approved by the U.S. Government, should be consulted when evaluating potentially disqualifying and mitigating information under this guideline and an opinion, including prognosis, should be sought. No negative interference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The guideline notes several conditions that could raise security concerns. I have considered all of the disqualifying conditions under AG ¶ 28, and the following are potentially applicable:

- (a) behavior that casts doubt on an individual's judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors; and
- (b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness.

Applicant failed to be honest and forthcoming during the testing process as part of his psychological evaluation and withheld information during his interview unless directly confronted. He was diagnosed by a duly qualified psychologist with Alcohol Abuse Disorder, Severe and Major Depressive Disorder, Recurrent, Moderate. His prognosis is guarded and his judgment, reliability, and trustworthiness is likely to be impaired. The above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns arising from psychological conditions. The following mitigating conditions under AG ¶ 29 were considered

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently



receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;

(c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;

(d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; and

(e) there is no indication of a current problem.

The evidence is insufficient to conclude any of the above mitigating conditions apply. There is not a favorable prognosis from a duly qualified medical professional, or a recent medical opinion that Applicant's condition is under control, in remission, or has a low probability of recurrence or exacerbation. I do not have evidence that Applicant is participating in a treatment program or is amenable to treatment. Applicant's psychological condition is not temporary and has not been resolved. I find none of the above mitigating conditions apply.

#### **Guideline E: Personal Conduct**

AG ¶ 15 expresses the security concerns for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility:

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I find the following potentially applicable:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to any employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and.

Applicant failed to be honest and forthcoming during the testing process as part of his psychological evaluation and withheld information during his interview unless directly confronted. He provided misleading or false information to the psychologist that contradicted information in his medical record with regards to his use of alcohol. The above disqualifying condition applies.

The following mitigating conditions under AG ¶ 17 are potentially applicable to the disqualifying security concerns based on the facts:

(a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

Applicant did not correct the false information he provided to the psychologist until he was confronted with contradictory information. Failing to be truthful during a psychological evaluation is not minor. The evidence is insufficient to conclude it is unlikely to recur. It casts doubt on his reliability, trustworthiness, and good judgment. Applicant testified during his hearing that he was embarrassed to admit his transgressions during the evaluation, which support he acknowledges his past behavior. However, there is insufficient evidence to conclude he has taken positive steps to alleviate the factors that contributed to his conduct because he continues to consume alcohol, engage in risky behavior, and does not believe his alcohol consumption impairs his judgment, despite routinely driving after drinking. None of the mitigating conditions apply.

### **Whole-Person Concept**

Under the whole-person concept, the administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of the applicant's conduct and all the circumstances. The administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

(1) the nature, extent, and seriousness of the conduct; (2) the circumstances surrounding the conduct, to include knowledgeable participation; (3) the frequency and recency of the conduct; (4) the individual's age and maturity at the time of the conduct; (5) the extent to which participation is voluntary; (6) the presence or absence of rehabilitation

and other permanent behavioral changes; (7) the motivation for the conduct; (8) the potential for pressure, coercion, exploitation, or duress; and (9) the likelihood of continuation or recurrence.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines G, I, and E, in my whole-person analysis. Some of the factors in AG ¶ 2(d) were addressed under those guidelines, but some warrant additional comment.

Applicant is 51 years old with a long history of excessive alcohol use. He has been diagnosed with Alcohol Abuse Disorder, Severe. He does not intend to abstain from alcohol use or seek treatment. He continues to drink alcohol to excess and drive. He failed to meet his burden of persuasion. The record evidence leaves me with serious questions and doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline G, alcohol consumption, Guideline I, psychological conditions, and Guideline E, personal conduct.

### **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:	AGAINST APPLICANT
Subparagraphs 1.a-1.e:	Against Applicant
Paragraph 2, Guideline I:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a:	Against Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Carol G. Ricciardello  
Administrative Judge