



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



In the matter of: )  
)  
) ISCR Case No. 20-02465  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Jeff Kent, Esq., Department Counsel  
For Applicant: *Pro se*

05/04/2022

**Decision**

MURPHY, Braden M., Administrative Judge:

Applicant mitigated the Government’s security concerns under Guideline G and Guideline I about his history of alcohol consumption, including after a diagnosis of severe alcohol use disorder. Applicant successfully completed alcohol treatment, participated in counseling and AA, and his condition is now in remission. He is addressing his issues with alcohol seriously and appropriately and has built up a track record of abstinence and sobriety, coupled with appropriate support mechanisms. In consideration of his actions and his whole-person evidence, Applicant has met his burden to establish that it is clearly consistent with the interests of national security that he maintain his access to classified information. Eligibility for continued access to classified information is granted.

**Statement of the Case**

Applicant submitted a security clearance application (SCA) on January 29, 2018. On May 7, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant alleging security concerns under Guideline G, alcohol consumption, cross-alleged, in part, under Guideline I, psychological conditions. The DOD issued the SOR under Executive Order (Exec. Or.) 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) implemented by DOD on June 8, 2017.

Applicant received the SOR on or about June 3, 2021, and subsequently submitted an undated response, in which he requested a hearing. The case was assigned to me on January 12, 2022. On January 26, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice scheduling the hearing for February 17, 2022. The hearing was to take place by video-teleconference, through an on-line platform.

The hearing convened as scheduled. Department Counsel offered Government Exhibits (GE) 1 through GE 5. GE 1 and GE 2 were admitted without objection. Applicant objected to GE 3 and GE 4, but the objections were overruled (Tr. 17-18) GE 5, a summary of Applicant's background interview, was not admitted. (Tr. 19-21) Applicant testified and submitted Applicant's Exhibits (AE) A and AE B, which were marked and admitted without objection. I left the record open to provide Applicant the opportunity to submit additional evidence. He timely submitted additional exhibits, which were marked and admitted without objection as AE C through AE J. They are described in the Facts section, below. DOHA received the hearing transcript (Tr.) on February 22, 2022. The record closed on March 4, 2022.

### **Findings of Fact**

Applicant admitted SOR ¶¶ 1.a, 1.c and the cross-allegation, SOR ¶ 2.a; and he denied SOR ¶¶ 1.b and 1.d. His admissions and explanations are incorporated into the findings of fact. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 59 years old. He has been married to his second wife since 1998. He has two grown children from his first marriage and he and his wife have two teenage children together. After high school, he served on active duty in the U.S. Air Force from 1981 to 2002, retiring as a master sergeant (E-7). Since 2002, he has been employed as an avionics manager for a defense contractor. He has held a security clearance for about 40 years, since his time in the Air Force, without incident. (Tr. 26-31, 68-69, 81; GE 1; GE 3)

In early January 2017, Applicant went out drinking with some friends. He had two drinks at a bar, came home, and drank some more. His wife and daughters became concerned about his excessive alcohol use and drove him to the hospital. (GE 2, GE 3)

Hospital records reflect that Applicant was examined and diagnosed with acute alcohol intoxication and alcohol use disorder. Notes also reflect that the treating physician had a lengthy discussion with Applicant and his family about his alcohol level and abnormal liver function tests. At the time, Applicant indicated that he was concerned about seeking alcohol treatment due to fear of losing his job. Notes reflect

that he consumed one or two bottles of wine daily at that time and that, though he wanted help, he was not ready to stop drinking. He was discharged and advised to follow up with his doctor, and to pursue outpatient alcohol treatment. (GE 2 at 6-7, 39, GE 3) (SOR ¶¶ 1.a, 1.b)

Applicant did not pursue alcohol treatment following his 2017 ER visit. His primary care doctor later told him to stop drinking and Applicant attempted to lessen his drinking gradually. He said he got down to two beers and then “shot myself in the foot and almost blew it.” (Tr. 57, 60) A follow-up visit in 2018 with the same doctor he saw in his 2017 ER visit (Dr. A) reflects that she questioned his judgment, as he knew he had a problem with alcohol yet was not doing anything to address it. (GE 3 at 3, 5)

Applicant testified that he first consumed alcohol at age 18, in the military. He often drank beer and wine overseas, where social drinking was commonplace. Records reflect that between 1997 and 2017, he drank beer and wine, mostly on weekends. During his hearing testimony, Applicant acknowledged that he had been drinking too much, and had not been ready to stop drinking, calling himself “hard-headed.” (Tr. 31-34, 47-53, 57-59, 70; GE 3)

In March 2020, at the DOD CAF’s request, Applicant participated in an evaluation by a licensed clinical psychologist. (GE 3, GE 4) The evaluator reviewed his medical records from his 2017 ER visit, other medical records, his security clearance paperwork, and conducted a clinical interview and appropriate testing of Applicant. The evaluator noted that Applicant “has a habit of severely minimizing his history of alcohol abuse,” including the events surrounding his 2017 ER visit, which he failed to mention, and any periods when he drank excessively, which he denied. (GE 3 at 3, 5)

As Applicant’s provider did in 2018, the evaluator expressed concerns about Applicant’s insight and judgment, lack of treatment, and ongoing alcohol consumption with no plan or intent to abstain. She diagnosed Applicant with severe alcohol use disorder, with a guarded prognosis. (GE 3 at 5) She found that his condition “may make him prone to lapses of judgment, thereby posing a risk to his reliability and/or trustworthiness concerning classified information.” (GE 3 at 6) (SOR ¶¶ 1.c, 2.a)

In early July 2020, at the advice of his family, Applicant voluntarily entered an inpatient substance abuse treatment program. Applicant testified that he remained at the facility, and in the program, an extra two weeks, until he was discharged successfully in mid-August 2020. The program was designed to integrate participants into Alcoholics Anonymous and its 12-step program, with daily meetings and sponsorship. (Tr. 36-38, 73; AE B)

Applicant’s case manager at the facility noted that he was an “absolute joy” to work with; he was consistently attentive, cooperative, and respectful, and appreciative of the opportunity to learn, grow, and change. The case manager gave him what was essentially a positive prognosis, assuming he remained clean and sober. He was advised to meet with his primary care physician, a counselor, and his sponsor, and to continue 12-step AA meetings daily for 90 days. (AE B)

Shortly thereafter, in late August 2020, Applicant began meeting with a counselor, a licensed clinical social worker. They had 28 sessions over the next year, as of August 2021. Applicant was diagnosed with adjustment disorder and mixed anxiety and depressed mood, as well as alcohol use disorder, in remission. He presented as “lucid, calm, and cooperative in each of our teletherapy sessions.” (AE A; Tr. 42-45) (I note that these teletherapy sessions took place during the ongoing COVID-19 pandemic).

The counselor’s handwritten notes do not reflect information on Applicant’s then-current drinking habits (if any), and a prognosis is not indicated. The document does not address whether, and if so, to what extent, the fact that Applicant’s condition is now in remission has impacted his judgment, reliability, or trustworthiness with respect to classified information. (AE A)

Prior to his March 2020 evaluation, Applicant had never had any alcohol treatment or other professional counseling. He acknowledged that his several attempts to curtail his drinking on his own were unsuccessful. He went to inpatient rehabilitation (in July 2020) because he finally recognized that he needed help. He said he was comfortable there because the center has military clientele. He said this treatment was “the answer.” (Tr. 71) He reported his inpatient treatment to his supervisor at work and said they were “very understanding.” Tr. 60-64)

Applicant acknowledged that he had continued drinking after he was diagnosed with severe alcohol use disorder, in March 2020. (SOR ¶ 1.d) However, he said that he had not consumed alcohol at all since before he entered inpatient treatment in July 2020. By the time the record closed, he had abstained from alcohol for one year and eight months. (Tr. 35-36, 46, 78; AE J)

Applicant testified that he has no alcohol in his house. He takes no medication to treat his alcohol issues. He has never had an alcohol-related arrest or driving offense, such as a DUI, and he has never had an alcohol-related incident at work. (Tr. 59-60, 64-65, 70)

Applicant testified that he had been going to AA with a sponsor, several nights a week for 10-12 months (Aug 2020 to summer 2021), then backed off to a few nights a week, due to the pandemic and also due to a shift change at work in fall 2021. He attended AA once in January 2022, but not since then. (Tr. 38-42, 73-75) He said he has a sponsor, and intended to resume counseling and AA attendance. (Tr. 65-66)

After the hearing, Applicant re-contacted his counselor and indicated an interest in resuming monthly sessions with her. She responded and indicated that she was retiring, but that he would be contacted by a new therapist. (AE G) Applicant had not participated in counseling with his therapist since about August 2021. (AE A, AE H) In late February 2022, Applicant also resumed participation in AA and contact with his AA sponsor. (AE I)

Applicant's work evaluations (2018-2021) show that he is regarded as being instrumental to the overall success of the mission. He is a model employee has an aggressive approach that achieves remarkable results. He consistently achieves outstanding ratings. He maintains responsibility for highly sensitive communications equipment. A longtime employee asserted that Applicant is an exemplary manager. The employee credited Applicant with asking for help (with his alcohol issues) when he needed it. Applicant exhibits integrity, leadership, and mission awareness. He performs his job well and can be trusted by the U.S. Government. (AE C – AE F)

### **Policies**

It is well established that no one has a right to a security clearance. As the Supreme Court has held, "the clearly consistent standard indicates that security determinations should err, if they must, on the side of denials." *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).

The AGs are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines 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." Under ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under ¶ E3.1.15, the applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain 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 the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

## Analysis

### Guideline G, Alcohol Consumption

The security concern for alcohol consumption is set forth in AG ¶ 21:

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.

The guideline notes several conditions that could raise security concerns under AG ¶ 22. The following disqualifying conditions are potentially applicable in this case:

- (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) or 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 history of engaging in habitual or binge consumption of alcohol. According to his medical records, he was consuming one to two bottles of wine a day at the time of his ER visit in January 2017. AG ¶ 22(c) applies.

Applicant was then diagnosed with alcohol use disorder by his treating physician, and advised to pursue substance abuse treatment following his discharge. He indicated that he was not ready to stop drinking, and did not pursue substance abuse treatment at that time. AG ¶¶ 22(d), 22(e), and 22(f) apply to those circumstances.

During his March 2020 DOD CAF psychological evaluation, Applicant was diagnosed with severe alcohol use disorder. AG ¶ 22(d) applies to that diagnosis. The psychologist noted his continued poor insight into his alcohol problems at that point, and she concluded that he was unwilling to pursue treatment and would continue drinking. Indeed, Applicant indicated that he continued drinking until July 2020, when he entered inpatient treatment. AG ¶ 22(e) and 22(f) are again satisfied.

Conditions that could mitigate alcohol consumption security concerns are provided under AG ¶ 23. The following are potentially applicable:

(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 and relapse, and is making satisfactory progress in a treatment program; and

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

Put simply, Applicant is for all practical purposes, a recovering alcoholic. He has a history of excessive alcohol consumption that he has only recently come to terms with and is properly addressing. He was first diagnosed with alcohol use disorder in January 2017 when, in a state of "acute intoxication," he was taken to the ER by his family. In March 2020, he was diagnosed with severe alcohol use disorder by a DOD evaluator. Again with the assistance of his family, he entered inpatient alcohol treatment in July 2020, before the SOR was issued. He was attentive, cooperative, respectful, and appreciative of the opportunity to address his alcohol issues, and he completed the treatment successfully in mid-August 2020. Though Applicant did acknowledge earlier relapses before he sought formal treatment, there is no record evidence that he has consumed any alcohol in the 20 months since then, and there is no evidence of subsequent relapse.

Following his discharge from inpatient treatment, Applicant participated in a year of counseling sessions, as well as AA, with a sponsor, as recommended. In August 2021, his counselor diagnosed him with alcohol use disorder, in remission. His participation in both counseling and AA either ended or tapered off after that, in part due to his work schedule, and in part due to the pandemic, which made in-person participation difficult. During his hearing, Applicant indicated a desire to renew counseling and AA, and had begun to do so by late February 2022. Applicant has a history of heavy alcohol consumption but has never had an issue with alcohol at work, nor does he have a record of any alcohol-related arrests, charges, or citations. He appears to have a strongly supportive family. All of this is to be considered, and largely in Applicant's favor, in weighing the specific mitigating conditions, both under Guideline G, and Guideline I, below.

AG ¶ 23(a) does not fully apply. Applicant's issues with alcohol are established due to his diagnosis, as well as his history of excessive alcohol consumption. Even though he is building up a track record of abstinence addressing his alcohol issues with appropriate counseling and support, it is difficult to say definitively that his issues are fully in his past.

AG ¶¶ 23(b) and 23(d) apply. Following appropriate participation, Applicant successfully completed the inpatient treatment program in August 2020, and participated in counseling and AA as recommended, for about a year afterwards. There is no record evidence to dispute his statements that he has fully abstained from alcohol in the 20 months since he entered the program. Through that program, Applicant is credited with acknowledging his alcohol issues for the first time, and with following through and abstaining from alcohol. He has demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations.

AG ¶ 23(c) does not fully apply but is given some consideration, because Applicant has not relapsed since his inpatient treatment. He is not in counseling currently, but is credited with renewing ties with his counselor after the hearing, with intentions of doing so. He also resumed connections with AA and with his sponsor.

### **Guideline I: Psychological Conditions**

The security concern for psychological conditions is set forth 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 inference 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 under AG ¶ 28. The following are potentially applicable in this case:

(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;



(b) an opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;

(c) voluntary or involuntary inpatient hospitalization; and

(d) failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions.

Applicant's history of binge drinking constitutes behavior that casts doubt on his judgment, stability, reliability, and trustworthiness, and it is related to his condition (i.e., his diagnosis of severe alcohol use disorder). However, since his behavior is alcohol-related (and alleged under Guideline G), it cannot be said that it is "not covered under any other guideline." It also was not cross-alleged under Guideline I. For these reasons, AG ¶ 28(a) does not apply.

As noted, in March 2020, Applicant was referred by the DOD CAF for a psychological evaluation. He was diagnosed by a clinical psychologist with severe alcohol use disorder. The evaluator specifically found that his condition may make him prone to lapses of judgment, and therefore posed a risk to his reliability and trustworthiness concerning classified information, AG ¶ 28(b) applies.

During his ER visit in January 2017, Applicant diagnosed with alcohol use disorder. He was advised to pursue outpatient alcohol treatment. He did not do that. Similarly, he was diagnosed with severe alcohol use disorder by the DOD evaluator in March 2020, and indicated that he would continue drinking and would not pursue treatment. While these treatment plans were recommended by his provider and the evaluator rather than formally prescribed, Applicant nonetheless failed to follow up and pursue them. AG ¶ 28(d) therefore at least partially applies.

In July and August 2020, at the recommendation of his family, Applicant voluntarily participated in several weeks of inpatient alcohol treatment. It is not clear, however, that this treatment constituted "hospitalization." If it did, AG ¶ 28(c) might therefore technically apply, but Applicant's participation in that program is not alleged in the SOR. Further, I consider that it is more mitigating than it is disqualifying.

AG ¶ 29 sets forth the potentially applicable Guideline I mitigating conditions:

(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; and

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

AG ¶¶ 29(a) and 29(b) are partially established. Applicant's alcohol disorder is readily controllable with treatment, and he has demonstrated compliance with his treatment plan. He actively participated in and successfully completed several weeks of inpatient treatment in summer 2020, and has remained abstinent from alcohol ever since. He participated in a year of aftercare counseling and AA. His participation waned later in 2021, but he has resumed AA participation and re-contacted his counselor more recently. His counselor diagnosed his alcohol use disorder as being in remission as of August 2021, though no prognosis was addressed. Nonetheless, while there is always a risk of recurrence with any recovering alcoholic, AG ¶ 29(e) fully applies since there is no indication of a current problem, given Applicant's demonstrated abstinence since before his inpatient treatment.

### **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 relevant 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 Guideline G and Guideline I in my whole-person analysis.

Applicant has a history of heavy alcohol consumption, which led to a diagnosis of severe alcohol use disorder. He later voluntarily entered inpatient treatment, and completed the program successfully. He is essentially a recovering alcoholic. His alcohol disorder is in remission, and he has a demonstrated track record of abstinence since his treatment. He has never had an issue with alcohol at work, nor does he have a record of any alcohol-related arrests, charges, or citations. He appears to have a strongly supportive family. I have also considered his lengthy career of service to the

nation, both in the Air Force and in the defense industry. Lastly, I had an opportunity to view his demeanor during the hearing and thus, to assess his credibility. I regard him as a credible witness, and I believe his testimony that his outlook and attitude towards his alcohol issues changed for the better due to his inpatient treatment. I consider that, while there is always a risk of recurrence in alcohol cases like this, Applicant is addressing his issues with alcohol seriously and appropriately and has built up a track record of abstinence and sobriety, coupled with appropriate support mechanisms. In consideration of his actions and his whole-person evidence, Applicant has met his burden to establish that his alcohol issues are being appropriately addressed and are no longer a security concern under either guideline alleged. Eligibility for continued access to classified information is granted.

### **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:	FOR APPLICANT
Subparagraphs 1.a-1.d:	For Applicant
Paragraph 2, Guideline I:	FOR APPLICANT
Subparagraph 2.a:	For Applicant

### **Conclusion**

In light of all of the circumstances, it is clearly consistent with the interests of national security to grant Applicant continued eligibility for a security clearance. Eligibility for access to classified information is granted.

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Braden M. Murphy  
Administrative Judge