



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



In the matter of: )  
)  
) ISCR Case No. 21-01954  
)  
Applicant for Security Clearance )

**Appearances**

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

05/26/2022

**Decision**

DORSEY, Benjamin R., Administrative Judge:

Applicant did not mitigate the alcohol consumption security concerns. Eligibility for access to classified information is denied.

**Statement of the Case**

On December 10, 2021, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline G (alcohol consumption). Applicant responded to the SOR on January 19, 2022, and requested a decision based on the written record in lieu of a hearing.

DOHA Department Counsel submitted the Government’s written case on February 15, 2022. A complete copy of the file of relevant material (FORM), including exhibits identified as Items 1 through 9, was provided to Applicant, who was afforded an opportunity to file objections and submit material to refute, extenuate, or mitigate the security concerns. Applicant received the FORM on March 4, 2022. As of April 19, 2022, he had not responded. The case was assigned to me on May 5, 2022. The Government exhibits included in the FORM are admitted into evidence without objection.

## Findings of Fact

In Applicant's answer to the SOR, he admitted all the allegations in the SOR (SOR ¶¶ 1.a-1.e), while also providing additional explanation to his admissions for SOR ¶¶ 1.d and 1.e. His admissions and explanations are included in 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 a 32-year-old employee of a defense contractor. He has worked for his current employer since February 2018. He earned a high school degree in 2007, attended community college for a year, then earned a trade certificate in 2016. He served on active duty with the U.S. Marine Corps from September 2008 until September 2013, deploying to Afghanistan for seven months in 2010 and in 2012. He held a security clearance while he was in the military. He has never been married and has no children, but has lived with a co-habitant since December 2017. (Items 5, 6)

Applicant began drinking when he was about 16 years old. Throughout high school, he drank about one or two beers per week. He started drinking more alcohol after he finished his Marine Corps boot camp, when he drank about one or two beers per night until early in 2010. In early 2010, he started drinking hard liquor. Within a couple of months, he was consuming about one-half bottle of hard liquor per night. For the remainder of his time in the military, his drinking varied from two beers in seven months to about one-half bottle of hard liquor per night, depending upon his military requirements. (Items 1, 4-6, 8, 9)

From 2013 until spring 2016, Applicant drank one-fourth of a bottle of hard liquor per night. In spring 2016, he moved in with his parents and switched to drinking four to five beers per night until October 2016. In about October 2016, he was arrested in State A and charged with driving under the influence of alcohol (DUI). He had consumed about eight to nine shots of alcohol at a bar with one of his co-workers. He had a blood alcohol content level of .183. He spent the night in jail. (Items 1, 4-9)

As a result of this DUI, Applicant did not drink for six months. From December 2016 until April 2017, Applicant attended 22 hours of out-patient alcohol treatment. On his intake form for this treatment, his stated goal was to abstain from alcohol. During this outpatient alcohol treatment, he was diagnosed with alcohol use disorder-moderate, and his treatment counselor recommended that he abstain from alcohol indefinitely. However, in contravention of his counselor's recommendation, by the end of his treatment, his stated goal was to drink alcohol in moderation. In April 2017, he started drinking again. He soon progressed back to one-half bottle of hard liquor per night. (Items 1, 4-9)

In November 2017, Applicant was convicted of the DUI charge from October 2016. He was placed on probation for one year and ordered to pay court costs and fines. He was ordered to complete 50 hours of community service, attend alcohol awareness courses, and submit to drug/alcohol testing. His probation was reduced to six months because he had already completed most of the court-ordered requirements

by the time he was convicted. He had his driver's license restricted to business purposes only for an additional six months. Applicant stated that his DUI taught him a lesson. He claimed that he learned to never drink and drive again. (Items 1, 4-9)

As of May 2020, Applicant was consuming one-fourth to one-half bottle of hard liquor per night. He drank to intoxication three nights per week. He sometimes needed to drink alcohol to help him fall asleep at night. He often drank at home with his girlfriend. It took him nine beers or three mixed drinks to get intoxicated. As of May 2020, despite his prior treatment diagnosis and recommendation, Applicant did not think he had a problem with alcohol and had no plans to stop drinking. He acknowledged that his drinking sometimes caused him to be late for work, and that his girlfriend complained about his drinking. (Items 1, 4-6, 8, 9)

As a result of a referral by the Department of Defense Consolidated Adjudication Facility (DOD CAF), in May 2021, Applicant underwent a psychological evaluation by a licensed clinical psychologist (Psychologist). The Psychologist was contracted by the DOD CAF. In order to make her psychological evaluation, the Psychologist reviewed background information submitted by the DOD CAF, the results of a clinical interview, and the results of the Personality Assessment Inventory (PAI) that Applicant completed following the interview. (Items 1, 4-6, 8, 9)

Based upon these measuring tools, the Psychologist diagnosed Applicant with alcohol use disorder (moderate). She opined that he should be further evaluated in order to rule out post-traumatic stress disorder (PTSD) or other anxiety disorder. She noted the marked discrepancy between what Applicant told her about his drinking habits versus what was contained in the background information submitted by the CAF. Applicant told the Psychologist that he only consumed one to two beers per night and denied that he ever drank one-fourth to one-half bottles of liquor per night. He failed to report to the Psychologist that he sometimes needed alcohol to sleep, that alcohol had led to tardiness at work, or that his girlfriend disapproved of how much he drank. Based upon these discrepancies, she found that the information Applicant provided to her during his clinical interview may be unreliable. She found that he has a guarded prognosis, and questioned his trustworthiness. (Items 1, 4-6, 8, 9)

### **Policies**

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 adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be 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, 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 Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ 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.

Section 7 of EO 10865 provides that adverse 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**

The security concern for alcohol consumption is set out 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 are potentially applicable in this case:

(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 the frequency of the individual's alcohol use or whether the individual has been 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 history of habitually drinking large amounts of alcohol to the point of intoxication. Applicant was arrested for DUI in 2016. In late 2016, while attending outpatient alcohol treatment, he was diagnosed with alcohol use disorder and told that he should abstain from alcohol. Instead, once he finished his treatment, Applicant began drinking heavily again. He was diagnosed with alcohol use disorder again in May 2021. The above disqualifying conditions are established.

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; and

(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.

Despite receiving a treatment recommendation that he no longer consume alcohol, Applicant continues to drink. Even if one is to believe the account of his alcohol consumption he gave the Psychologist that she found to be unreliable, he is still drinking every night. His excessive drinking is ongoing. There is insufficient evidence to show that he acknowledges that he has a problem with alcohol. As his treatment recommendation is to abstain from alcohol, his decision to continue drinking casts doubt

on his current reliability, trustworthiness, or judgment. 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 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 have incorporated my comments under Guideline G in my whole-person analysis. I also considered Applicant's military service and multiple deployments.

Overall, the record evidence leaves me with questions and doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant did not mitigate the alcohol consumption security concerns.

### **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

### **Conclusion**

It is not clearly consistent with the interest of national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is denied.

---

Benjamin R. Dorsey  
Administrative Judge