



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



In the matter of: )  
)  
) ISCR Case No: 20-00591  
)  
)  
Applicant for Security Clearance )

For Government: Karen Moreno-Sayles, Esq., and Nicole Smith, Esq., Department  
Counsel  
For Applicant: Jacalyn Crecelius, Esq.

06/30/2022

Decision

BENSON, Pamela, Administrative Judge:

Although Applicant mitigated personal conduct security concerns, she failed to mitigate the alcohol consumption and criminal conduct security concerns. Not enough time has elapsed since she engaged in alcohol-related criminal behavior to show that future misconduct is unlikely to recur. National security eligibility is denied.

**Statement of the Case**

On October 29, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (CAF) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guidelines G (Alcohol Consumption), J (Criminal Conduct), and E (Personal Conduct). The action was taken under Executive Order 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 for Determining Eligibility for Access to Classified Information* (AG) effective within the DOD on June 8, 2017.

Applicant provided an undated response to the SOR with additional documentation, and requested a hearing before an administrative judge (Answer). The case was assigned to me on October 15, 2021. Applicant obtained an attorney, and the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on March 2, 2022, setting the hearing for March 22, 2022. The hearing was held as scheduled.

During the hearing, Department Counsel offered Government Exhibits (GE) 1 through 3; and Applicant offered Applicant Exhibits (AE) A through J. All proffered exhibits were admitted into evidence without objection, except for specific portions of AE H and I, addressed below. I held the record open for two weeks in the event either party wanted to supplement the record with additional documentation. Post-hearing, Applicant timely submitted a personal statement labeled AE K, which was admitted without objection. The Government requested an extension of time to submit documentation, which was granted, and the record was held open until April 19, 2022. Department Counsel timely submitted three police reports labeled GE 4 through 6, which were admitted into the record without objection. DOHA received the hearing transcript (Tr.) on March 29, 2022, and the record closed on April 20, 2022.

### **Evidentiary Matter**

On March 21, 2022, Department Counsel submitted a Motion *in Limine* in connection with Applicant's proposed exhibits H and I, i.e., "Determination Letter from (name omitted)," along with cited Enclosures 1 & 2. The Government concerns were twofold; first, the licensed clinical social worker listed on her resume that she is "certified by the Department of Hearings and Appeals (DOHA)." The Defense Office of Hearings and Appeals (DOHA) does not "certify" any professionals as a particular subject matter expert. Therefore, the claim made by Applicant's expert witness is incorrect. Applicant's witness has been accepted as an expert witness in other DOHA cases. Second, Department Counsel stated that this individual also used the adjudicative guidelines to draw legal conclusions with respect to whether security concerns outlined in the SOR have been mitigated based on the information she collected solely from the Applicant. It was the Government's position that it is irrelevant and improper for this witness to provide an application of the facts to the adjudicative guidelines, and to offer an assertion that the security concerns have been fully mitigated in this particular case. This responsibility is exclusively for the DOHA judge. Applicant's counsel conceded that their expert's claim of being DOHA certified was troubling. She requested that I not consider any opinion offered on the adjudicative guidelines by their witness, and to focus only on her medical evaluation of the Applicant that was within her realm of professional expertise. I granted the Government's motion and accepted Applicant's Counsel's concession that I not consider the witness as a certified DOHA subject-matter expert or give weight to her expert opinion that security concerns are mitigated, or that Applicant's security clearance should be granted. (Tr. 8-13) I will, however, consider her opinion on application to the adjudicative guidelines as I would consider the opinion of any lay witness on these matters.

## Findings of Fact

Applicant admitted all allegations contained in the SOR, (§§ 1.a-1.f, and 2.a.), but she denied the single allegation under Guideline E. (§ 3.a.) In addition to her admissions, she provided explanations and submitted two documents from a substance abuse treatment provider with her response to the SOR; one dated August 11, 2017, and the other dated March 7, 2018. (Answer)

Applicant is 46 years old. She earned an associate's degree in 1996. She was divorced from her first husband in 2004. They have four daughters, ages 27, 25, 21, and 18. She remarried her second spouse in 2011. Since August 2018, she is employed by a federal contractor as a CATS analyst, but because it is a small company, she performs a variety of employment duties, to include assistant facility security officer. She held a DOD security clearance from 2006 when she was first employed by a federal contractor. In 2010 she worked for a different federal contractor until she was laid off in October 2016. She is required to possess a security clearance to perform specific job duties for her employer. (Tr. 24-31; GE 1, GE 3)

In July 2016, Applicant submitted an Electronic Questionnaires for Investigations Processing (e-QIP). She disclosed a July 2015 driving under the influence of alcohol (DUI) arrest. In October 2017, a government investigator conducted a background interview with Applicant. They discussed Applicant's listed July 2015 DUI arrest. She volunteered that she had been arrested in September 2016 and charged with a second DUI, which was discussed. A third DUI arrest was developed, and she admitted after questioning that she had been arrested in June 2017, but that she had not yet appeared in court. On July 15, 2020, Applicant reviewed the interview report and certified the information provided therein was accurate and true. (GE 1, GE 3; Tr. 43)

Applicant consumed alcohol, at times in excess and to the point of intoxication, since about age 15 to at least July 2017 (SOR § 1.a). During the October 2017 background interview, Applicant stated that she began consuming alcohol regularly in her early 30s and drank a half bottle of wine three to four times a week. She believed her consumption of alcohol was not excessive. After her first DUI arrest in July 2015 (§ 1.b), counseling helped her stop drinking alcohol for a short period of time. She resumed her use of alcohol to self-medicate when experiencing high levels of stress. Her alcohol consumption continued despite her second DUI arrest in September 2016 (§ 1.c). After her third arrest for DUI in June 2017 (§ 1.e), she voluntarily admitted herself into a substance abuse rehabilitation center (§ 1.f). She told the investigator that she does not intend to use alcohol in the future. (GE 3; Tr. 34-36, 40-46)

Applicant responded to an alcohol interrogatory with attached medical records, which she completed in July 2020. She admitted that she drank alcohol again during Christmas 2019. She listed that she realized that she cannot drink like a "normal person on a regular basis." She periodically attended Alcoholics Anonymous (AA) meetings until 2018. At the hearing she admitted that she attended a total of approximately 10 AA meetings, and she did not attend any other AA meetings after 2018, or that she needed AA support after her December 2019 relapse. (GE 2; Tr. 51-55)

Post-hearing documents submitted by Department Counsel included the police reports for the three alcohol-related arrests in 2015, 2016, and 2017. According to one report, Applicant was stopped by police in July 2015 at approximately 7:00 p.m. When the police officer asked her if she had any alcohol to drink, Applicant stated; "I had three drinks at lunch today because that is part of my job." The officer noted in the report that she was wearing high heeled shoes which were removed before she was administered the field sobriety tests. When asked if she would consent to taking a breathalyzer test, Applicant responded that if she took the test she would go to jail. She told the police officer that she held a security clearance and if her employer found out she was "[expletive]." She took the test and her blood alcohol content (BAC) registered 0.258. Applicant was taken into custody and charged with DUI and violating a traffic control signal. She was ultimately found guilty of DUI and she was placed into a diversion program with specific conditions to include enrolling into an alcohol treatment program and to not consume any alcohol while she was on her one-year probation. (GE 3; GE 5; Tr. 40-42, 79)

During the hearing, Applicant explained the circumstances which resulted in her first DUI arrest. After she got off from work, she went to a bar and consumed some alcoholic drinks, but she could not recall how many she drank. Applicant was specifically asked if she had ever been under the influence of alcohol while working, and she replied; "never." Department Counsel asked Applicant if she had told the investigator during her background interview that she had consumed six shots of liquor before she was arrested for her first DUI, and she admitted that was accurate. Department Counsel asked her if she was aware that her BAC of 0.258 was more than three times over the legal limit, and Applicant said she was surprised by that information. When asked again whether she had ever reported to work under the influence of alcohol, Applicant admitted that a previous employer had a private conversation with her about alcohol. When confronted with information developed from her background investigation from a previous employer, Applicant did not recall that her supervisor had found her in an intoxicated state on two occasions in October 2016, or that her husband had to pick her up and take her home on both occasions. She also did not recall that in October 2016 her employer laid her off, in part, due to her excessive use of alcohol while on the job. (Tr. 40-44, 59, 77-78, 89-91)

The September 2016 police report disclosed a phone call was made about the welfare of a woman who had gotten out of a parked vehicle and urinated, returned to her car and passed out. When the police officers arrived at approximately 4:30 p.m., Applicant was slumped over the steering wheel of a running car. The officers knocked on the window, nudged her shoulder, and reported that her cell phone was also ringing loudly. She was unresponsive. Paramedics were called to the scene; the car was turned off; and the keys were removed from the ignition. When an officer tried to get Applicant to rest back in her car seat, she opened her eyes. There was a strong odor of alcohol coming from her. The officer told Applicant that an emergency squad was coming and asked her what she had to drink. She responded that she drank two bottles of vodka. Applicant was arrested and charged with DUI and parking on a curb. When she arrived at the station, her BAC registered 0.283. Ultimately, the DUI charge was dismissed but the court added an additional year of treatment to the 2015 diversion program requirements. Applicant had violated the terms of her probation by consuming alcohol when the second alcohol-related arrest occurred. (GE 6; Tr. 42-43, 82-87)

Applicant received treatment from about October 2015 to October 2017, for a condition diagnosed as alcohol abuse disorder. (¶ 1.d) Applicant stated she had approximately monthly therapy sessions during the two-year period. She admitted that she continued to consume alcohol during her treatment and against medical advice. She was arrested for her third DUI a few months before the treatment program ended. (Tr. 42, 44-45, 47-48)

The June 2017 police records disclosed that Applicant had moved her daughter's car, and while turning at an intersection, she hit a street sign which damaged the car. She did not report the accident to police. The police officer who had filed the 2017 report noted that she previously had four contacts with Applicant, all involving alcohol, to include a DUI arrest in 2016. When Applicant was asked if she had been drinking alcohol, Applicant stated "a few sips of wine." She did not pass the field sobriety tests and was taken into custody. Applicant registered 0.199 BAC at the station. She was charged with DUI and failure to give information after striking unattended property. The day following the arrest Applicant admitted to the police officer that she had been to the liquor store and drank "a vodka shooter" prior to the accident. At the hearing Applicant stated that she was found guilty of DUI, fined, and she served 24 hours in jail. (Tr. 45-47; GE 6)

Applicant testified that she had a cordial relationship with her ex-husband until about 2015. At that time, he announced that he had military orders to move to another state for about a year. He and his current wife would take their recreational vehicle (RV) and requested that the youngest daughter stay with them. Applicant refused to relinquish custody of their youngest daughter, and in retaliation, he filed for full custody for their two youngest daughters. She was in court frequently and the custody battle was contentious. She started drinking alcohol more frequently during this time period while her life was very stressful. For several years she took prescribed antidepressant medication while consuming alcohol. The first time she considered that she may have a problem with alcohol, occurred after she was arrested for her first DUI in 2015. She continued to consume alcohol, in violation of her probation and against medical advice, until June 2017, when she was arrested for her third DUI. (Tr. 36-39, 70, 75-76, 87-89)

Applicant stated that she voluntarily admitted herself to an alcohol treatment center after her third DUI arrest. The medical records disclosed Applicant's self-reported alcohol and prescription drug history. She began using alcohol at age 15. Her primary choice of alcohol was beer, vodka, and wine. She last used alcohol on the day of her admission, July 14, 2017 at 2:00 p.m., after drinking 10 shooters (shots of liquor). She reported to personnel that she is unable to stop using alcohol without help. It also disclosed that her drinking pattern consisted of drinking 10 to 20 shooters while on binges, about one day a week for the last ten years. She enrolled into inpatient treatment for substance abuse in 2016, but she was released after staying a few days because her insurance would not cover the cost of treatment. She had experienced alcohol-related blackouts, emotional problems, family problems, marital conflict, and legal problems from abusing alcohol. Applicant was diagnosed with Alcohol Use Disorder Severe, and Sedative Use Disorder Severe. She was discharged from the treatment facility on August 11, 2017. During the hearing, Applicant stated that the alcohol treatment center's diagnosis was questionable since the facility coded her with a serious diagnosis in an effort to have her insurance cover her inpatient treatment. She stated the facility took "creative license" with the

medical diagnosis. Applicant denied that all of the information was reported accurately in her medical records. She completed six months of outpatient treatment following her discharge (§ 1.f). (GE 2; Tr. 48-50, 59, 72-74, 82)

Applicant relapsed after consuming alcohol at a 2019 Christmas party. She drank two glasses of wine with dinner. She was disappointed in herself for drinking alcohol because she had to start her sobriety clock all over again. Her husband was also upset with her for drinking alcohol. She did not return to alcohol treatment or AA meetings. She said she does not need any assistance to maintain sobriety, and she has made many positive changes to live a healthier lifestyle. (GE 2; AE H; Tr. 51-55)

Applicant provided an independent alcohol abuse evaluation from a licensed clinical social worker (LCSW), and certified substance abuse counselor (CSAC). The professional evaluator listed on her resume “specializing in security clearance evaluations and mental health treatment for federal government employees and contractors.” As previously stated, this report and the enclosures were the basis for the motion in *limine* filed by Department Counsel. My review of these documents will be limited as indicated previously. (GE H, GE I)

The alcohol evaluation took place on March 11, 2022, via live video feed, and involved standardized testing and a one-on-one personal interview. The report noted that in 1996, Applicant was diagnosed with post-traumatic stress disorder (PTSD), depression, and anxiety. This diagnosis has continued throughout her life. She has been prescribed various medications over the years to treat her conditions. In 2015, Applicant experienced excessive stressors after she and her ex-husband became involved in a combative custody lawsuit, and she drank alcohol to relieve the tension. It was during this time she was arrested for her first DUI in 2015. She stated that she was wearing “very high” heeled shoes and failed the sobriety tests. She completed all the requirements for the diversion program successfully.

For the second DUI, Applicant admitted that had a few drinks at a friend’s house. After leaving her friend’s house, she called her husband to pick her up because she was aware that she should not be driving. She was arrested for DUI only after she admitted to the police officer that she had consumed alcoholic drinks with her friend. Her diversion was extended an additional year. The third DUI occurred because Applicant had to move her daughter’s car to make room for a basketball game. Unbeknownst to her or her daughter, her ex-husband had a “tracker” placed on the car. The stepmother called and asked the daughter why she was driving the car and the daughter apparently reported that her mother had moved the car. The stepmother called police to report that Applicant was illegally driving the car. The police arrived, and Applicant admitted to having two to four glasses of wine prior to moving the car. She was arrested for DUI, she lost her driver’s license, and was required to install an interlock device on her car once her driving privileges were restored. There was no indication that the evaluator had any corroborating information, to include any of the police reports, and the only source of information used in the evaluation was supplied solely by Applicant.

The mental health professional wrote in the evaluation report:

“...It should be noted that when patients first enter treatment they may well be diagnosed with a higher level of disorder, as was the case with Ms. (omitted) when she entered [alcohol treatment]. Often the scale used includes a DUI or evidence of interactions with the law. However, it should be noted that a diagnosis upon entry to treatment is not a static event. Treatment, education, spiritual healing, psychotherapy, community, and engagement in a healthy lifestyle will adjust the diagnosis accordingly.” There was no indication that the evaluator had corroborating information from [the alcohol treatment center] or a professional medical publication to support her opinion. (AE H)

The evaluator noted that Applicant had remained sober from July 2017 to December 2019 before her relapse. Applicant regretted the relapse and made a commitment to never do so again. The evaluator diagnosed Applicant with moderate alcohol use disorder, in remission. It was her professional opinion that if Applicant continued with daily spiritual practices, attendance at Alcoholics Anonymous meetings, and continued engagement of a healthy lifestyle, Applicant had a very good prognosis for the future. (AE H, AE I)

### **Personal Achievements and Recognition:**

Applicant submitted a September 2007 e-mail from a branch chief who lauded Applicant’s accomplishments with a challenging work project, and recommended her for a bonus due to her outstanding efforts. Applicant also submitted a March 2015 certificate of appreciation from the Intelligence, Surveillance, & Reconnaissance Integration for her exemplary support. There was a photograph of Applicant receiving a CSC award, possibly the 2010 winner of the CSC President’s Award, as listed in her resume. (AE D, AE E)

### **Policies**

When evaluating an applicant’s suitability for national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying and mitigating conditions, which are useful 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 AG ¶ 2 describing 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.

Directive ¶ E3.1.14 requires the Government to present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states that an “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, and has the ultimate burden of persuasion as to obtaining a favorable clearance 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 protect or 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 Executive Order 10865 provides that an adverse decision 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* Executive Order 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information.)

## **Analysis**

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

AG ¶ 21 describes the security concern about 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 provides conditions that could raise a security concern and may be disqualifying as follows:

(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;

(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, licensed clinical social worker) of alcohol use disorder;

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

(g) failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

The record evidence establishes AG ¶¶ 22(a), 22(b), 22(c), 22(d), 22(e), and 22(g). Applicant was involved in three alcohol-related arrests in 2015, 2016, and 2017, and her BAC recordings were well over the legal limits, registering 0.258, 0.283, and 0.199. She was diagnosed in 2017 with alcohol use disorder severe by a qualified medical or mental health professional, and she continued using alcohol in violation of the terms of her probation and against medical advice while enrolled in court-ordered treatment.

AG ¶ 23 lists four conditions that could mitigate security concerns:

(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 any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Applicant was involved in three alcohol-related arrests for three consecutive years and she registered alarmingly high BAC readings that were well above the legal limit. Following her first DUI, there was a court-ordered requirement that she abstain from using alcohol during her probationary period, to which she agreed. She failed to remain alcohol-free, as required, which resulted in two additional alcohol-related arrests. She also consumed alcohol while she was enrolled in court-ordered treatment and against medical advice. She was arrested for a third alcohol-related offense a few months before completing the treatment program. She has repeatedly minimized her 2017 diagnosis of alcohol use disorder.

The 2015 police report noted that Applicant stated she had three alcoholic drinks during lunch for her job. Also, when confronted by adverse information developed during the course of her background investigation by her former employer, Applicant did not deny the reported alcohol-related incidents at her place of employment, to include that her husband was called on two occasions to pick her up due to her intoxicated state. She said she did not recall any of those incidents reported to the investigator and discussed during the hearing. She did recollect having a private conversation with her former employer concerning alcohol.

Applicant completed 30 days of inpatient treatment in 2017, and she completed six months of aftercare treatment following her discharge. She attended a total of approximately ten AA meetings, but none since 2018 or after her relapse in December 2019. Applicant provided self-serving details during her independent alcohol evaluation to the LCSW, which shows a lack of rehabilitation and weighs against continuance of her security clearance. I agree with the LCSW's professional opinion that Applicant's continued attendance with AA (or any other professional and legitimate alcohol support organization) is needed, in part, for a future favorable prognosis. Applicant has not met that criteria. Due to the severity of Applicant's alcohol abuse, I believe more time is needed to establish successful rehabilitation. Applicant failed to mitigate the alcohol consumption security concerns.

#### **Guideline J: Criminal Conduct**

The security concern related to the criminal conduct guideline is set out in AG ¶ 30:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 31 lists conditions that could raise a security concern and may be disqualifying. Three potentially apply:

(a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgment, reliability, or trustworthiness;

(b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted; and

(d) violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program.

The record evidence establishes AG ¶¶ 31(a), 31(b), and 31(d). Applicant was involved in three alcohol-related arrests in 2015, 2016, and 2017, and she continued

using alcohol in violation of the terms of her probation and against medical advice while enrolled in court-ordered treatment.

AG ¶ 32 lists two conditions that could mitigate the security concerns:

(a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant's criminal conduct raises serious security concerns. Her willful and continued violations of her probation requirement to abstain from using alcohol, to include during two years of court-ordered treatment, demonstrates that she has great difficulty refraining from alcohol consumption, which has led to serious offenses. A DUI risks serious injury or death to others. There is insufficient evidence in the record to demonstrate that Applicant's criminal conduct will not recur. I find that more time is needed to ensure that she does not repeat her excessive drinking in the event she encounters another stressful situation. As such, her criminal behavior continues to cast doubt on her reliability, trustworthiness, and good judgment. Applicant failed to establish mitigation under the above mitigating conditions.

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

AG ¶ 15 expresses the security concern 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 or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes. . . .

AG ¶ 16 describes one condition that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(e) personal conduct... that creates a vulnerability to exploitation, manipulation, or duress, such as

(1) engaging in activities which, if known, may affect the person's personal, professional, or community standing . . . .

Guideline G allegations ¶¶ 1.a, 1.b, 1.c, and 1.e are cross-alleged under Guideline ¶ 2.a. Each of them is established by the record evidence. Applicant's history of alcohol abuse, three alcohol-related arrests, and her willful violations of her probation requirement to abstain from using alcohol support application of AG ¶¶ 16(d) and 16(e)(1).

AG ¶ 17 provides conditions that could mitigate security concerns in this case:

(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;

(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; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.

Applicant's remorse for her December 2019 relapse and her commitment to continued sobriety is admirable. She has notified security officials at her place of employment about her alcohol-related misconduct. She has taken steps to reduce vulnerability by her disclosure of this adverse information, and as such, it is unlikely she will be a target for exploitation. Applicant has successfully mitigated personal conduct security concerns under ¶ 17(e).

### **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) 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 national security eligibility must include an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines G, J, and E into my whole-person analysis.

In 2015, 2016, and 2017, Applicant was arrested for alcohol-related offenses and she registered relatively high BAC readings during each incident, establishing binge alcohol consumption. She continued to consume alcohol in violation of her probation requirement and against medical advice during her two years of court-ordered treatment. She received a 2017 diagnosis of alcohol use disorder severe; she relapsed by drinking wine in December 2019; and she failed to return to AA meetings or obtain professional support considering her history of excessive alcohol use. More time is required before Applicant can be considered successfully rehabilitated.

Overall, the record evidence leaves me with doubts as to Applicant's eligibility and suitability for a security clearance. Although she mitigated the personal conduct security concerns, Applicant failed to mitigate the security concerns arising under the alcohol consumption and criminal conduct.

### **Formal Findings**

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1, Guideline G:	AGAINST APPLICANT
Subparagraphs 1.a, 1.b, 1.c, and 1.e:	Against Applicant
Subparagraphs 1.d, and 1.f:	For Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

### **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue Applicant's security clearance. National security eligibility is denied.

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Pamela Benson  
Administrative Judge