



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



In the matter of:)
)
) ISCR Case No. 19-03189
)
Applicant for Security Clearance)

Appearances

For Applicant: Ronald C. Sykstus, Esq.
For Government: Gatha L. Manns, Esq., Department Counsel

09/15/2022

Decision

HARVEY, Mark, Administrative Judge:

Guideline G (alcohol consumption) security concerns are mitigated; however, Guideline I (psychological conditions) security concerns are not mitigated. Eligibility for access to classified information is denied.

Statement of the Case

On January 9, 2017, Applicant completed and signed an Electronic Questionnaires for National Security Positions (SF 86) or security clearance application (SCA). (Government Exhibit (GE) 1) On June 12, 2020, the Defense Counterintelligence and Security Agency Consolidated Adjudications Facility (DCSA CAF) issued a statement of reasons (SOR) to Applicant under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry*, February 20, 1960; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), January 2, 1992; and Security Executive Agent Directive 4, establishing in Appendix A the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (AGs), effective June 8, 2017. (Hearing Exhibit (HE) 2)

The SOR detailed reasons why the DCSA CAF did not find under the Directive that it is clearly consistent with the interests of national security to grant or continue a security clearance for Applicant and recommended referral to an administrative judge to determine whether a clearance should be granted, continued, denied, or revoked.

Specifically, the SOR set forth security concerns arising under Guidelines I and G. (HE 2) On June 25, 2020, Applicant provided a response to the SOR, and he requested a hearing. (HE 3) On January 25, 2021, Department Counsel was ready to proceed. Processing of the case was delayed due to the COVID-19 pandemic.

On February 18, 2022, the case was assigned to me. On March 7, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for May 19, 2022. (HE 1A) The hearing could not be held because Microsoft Teams was malfunctioning. On May 20, 2022, DOHA issued a notice of hearing, setting the hearing for July 26, 2022. (HE 1B) On June 15, 2022, DOHA issued a notice of hearing, resetting the hearing for August 16, 2022. (HE 1C) The hearing was held as scheduled on August 16, 2022.

Department Counsel offered 6 exhibits into evidence, and Applicant offered 13 exhibits into evidence. (Transcript (Tr.) 12-18; GE 1-GE 6; Applicant Exhibit (AE) A-AE M) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 14, 18) On August 25, 2022, DOHA received a transcript of the hearing.

Some details were excluded to protect Applicant's right to privacy. Specific information is available in the cited exhibits and transcript.

Findings of Fact

In Applicant's SOR response, he admitted in part and denied in part the SOR allegations in ¶¶ 1.a, 1.b, 2.a, 2.b, 2.c, and 2.d. (HE 3) He also provided mitigating information. (*Id.*) His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 40-year-old senior technical management lead over a team of three, soon to be five employees, and they perform laboratory work in the area of logistics data for a DOD contractor. (Tr. 19, 21) He has worked for his current employer since 2014. (Tr. 19, 21) In 2000, he graduated from high school. (Tr. 21) In 2003, he married, and his three children are ages 11, 16, and 18 years old. (Tr. 20-21) His spouse was diagnosed with bipolar disorder and depression, and she sees a counselor and takes mental-health medication. (Tr. 51)

In 2000, Applicant joined the Army National Guard (ARNG), and in 2003, he was activated and sent to Iraq for almost 12 months. (Tr. 22, 24) His military occupational specialty (MOS) was information systems analyst operator. (Tr. 22-23, 64) In 2008, Applicant received an honorable discharge from the ARNG. (Tr. 46) Shortly after leaving the ARNG, he joined the Army Reserve, where he honorably served until his discharge due to expiration of his term of service (ETS) in 2018. (Tr. 27, 47-48)

Applicant's Army Reserve unit had a large number of senior noncommissioned officers, and Applicant as a sergeant (E-5) was required to do work that he considered inappropriate for someone of his rank and experience. (Tr. 27-29) Applicant had a medical profile and was unable to pass a physical training test. (Tr. 29) When he left the

Army, he had 17 years of service towards retirement, and he was a sergeant. (Tr. 45-46, 75-76)

Psychological Conditions

SOR ¶ 1.a alleges Applicant received mental-health treatment from October 2015 to May 2017. He was diagnosed with Opioid Abuse, uncomplicated, and Major Depressive Disorder, recurrent, moderate. (GE 3 at 38; HE 2) He was prescribed Zoloft, Trazadone, and Wellbutrin. (*Id.*) His prognosis vacillated between guarded and good. He decided to end his treatment shortly after a change in his medications.

Applicant admitted he received the treatment described in SOR ¶ 1.a. (HE 3) In about 2014, he consumed his spouse's prescription anxiety medication three or four times a week until 2016 because he was feeling anxious. (Tr. 52-53) He did not have a prescription for his own anxiety medication. (Tr. 52) About four years ago, he also used his mother-in-law's prescription migraine pain medication because he had pain from doing pushups and physical training in the Army. (Tr. 56-57)

In 2015, Applicant was having difficulties in his marriage, and he said he had unrealistic expectations about the quality of the housework his spouse was supposed to perform. (Tr. 28) At his initial mental-health appointment in October 2015, the provider noted that Applicant described chronic pain and self-medication using his spouse's Klonopin and Loratabs. (GE 3 at 37) "He admitted to occasional alcohol abuse, but denied any history of blackouts, cravings or withdrawals. He reported chronic anxiety [with] weekly panic attack." (*Id.*) He attributed his depression to issues in his marriage. (HE 3) In 2015, he said he went to counseling once or twice a month. (Tr. 30)

Applicant's medical records reflect that he saw a mental-health practitioner from October 2015, to May 2017. (GE 3) His May 2017 progress note states "Today's symptoms include concentration difficulty or mind going blank, difficulty handling uncertainty or indecisiveness, excessive worry, feelings of loss of control, restless/keyed up, sense of dread/fear, tense." (GE 3 at 1) The Assessments were Major depressive disorder, recurrent, moderate; Anxiety disorder, unspecified; Insomnia, unspecified; and very depressed and increase in anxiety. (*Id.* at 2) The treatment recommendation was to continue Wellbutrin (depression), start Zyprexa (depression), start Trintellix (anxiety), and stop Zoloft (anxiety). (*Id.*) The prognosis was good and continued psychotherapy was recommended as needed. (*Id.*)

At his hearing, Applicant said his marriage improved and is much better now than it was in 2015. (Tr. 33; HE 3) His children are doing well in school and enjoy extracurricular activities. (Tr. 34-36)

Applicant ended his opioid abuse after he received shoulder surgery in 2019. (Tr. 69) His shoulder surgery ended his chronic pain and his need for opioids. (Tr. 69)

In July 2019, Dr. L, a psychologist, evaluated Applicant at the request of the DCSA CAF. (SOR ¶ 1.b; HE 2) Dr. L diagnosed him with Unspecified Anxiety Disorder,

Unspecified Depressive Disorder, and Alcohol Use Disorder, moderate. (GE 4 at 4) Dr. L said:

[Applicant] either lacked insight into his problematic alcohol use and drug misuse, or was intentionally attempting to downplay his history. He has not received proper interventions for his mental health conditions, and has opted to discontinue treatment on his own. Given his minimization of his history, lack of sufficient treatment, minimal social support, and continued relationship with the individual that he identifies as the culprit for his past inappropriate behaviors, his prognosis is guarded. [Applicant's] judgment, reliability, and trustworthiness are likely to be impaired. (GE 4 at 4)

Applicant said his diagnosis and prognosis may have resulted from anxiety due to his arrest for driving under the influence of alcohol (DUI) and concern about losing his security clearance. (HE 3) At the time of his evaluation in 2019, he was taking CBD oil. (Tr. 58) He asked his supervisor about using CBD oil, and based on his supervisor's response, he stopped using it. (Tr. 59) His use of CBD oil does not raise a security concern.

Dr. L said Applicant "seemed to minimize his problematic history." (GE 4 at 3) He had physical signs of depression, hostility, and bitterness. (*Id.*) At his hearing, Applicant suggested he was probably feeling some agitation and hostility because of the length of time the process was taking, and he believed he was doing a good job at work. (Tr. 71) Dr. L said Applicant had "a history of antisocial behavior," (GE 4 at 3) and Applicant believed Dr. L was referring to his lack of attendance at social activities and his orientation towards his family. (Tr. 72) Applicant disagreed with Dr. L's statement that his friends and family were "unsupportive." (Tr. 72; GE 4 at 3) His mother-in-law and father-in-law have been particularly supportive of him. (Tr. 72) Dr. L said she was concerned about Applicant's "continued relationship with the individual that he identifies as the culprit for his past inappropriate behaviors." (Tr. 73-74; GE 4 at 4) Applicant believed Dr. L was referring to his spouse. (Tr. 74)

Applicant took Zoloft until November 2016. (GE 2 at 2) He is not currently taking any medication for his anxiety and depression. (Tr. 62) He has not had any mental-health counseling or treatment since November 2016. (Tr. 62; GE 2 at 2)

Alcohol Consumption

SOR ¶ 2.a alleges Applicant consumed alcohol, at times to excess and the point of intoxication, from about 2016 to at least July 2019. (HE 2) Applicant said his period of heaviest alcohol consumption was when he was having marital issues from 2014 through 2016. (Tr. 49)

SOR ¶ 2.b alleges Applicant was arrested in March 2016, and charged with DUI. (HE 2) He drank two bottles of wine and six beers; he consumed his wife's prescribed Klonopin, and he had a blackout or loss of memory. (Tr. 55-56; GE 2 at 1) He locked himself in his children's bedroom, and his spouse called the police. (Tr. 60; GE 2 at 1)

He went outside and sat in his vehicle, and the police arrested him for DUI. (GE 2 at 1) His blood alcohol content (BAC) was .14. (GE 5) He did not receive any adverse or disciplinary action from the Army. (Tr. 65) His supervisor said no adverse action was necessary because he was not on duty. (Tr. 65)

When Applicant went to court, he pleaded guilty and received pretrial diversion. (Tr. 68; GE 2 at 1) He attended the required driving classes, paid the court-ordered fines and fees totaling \$1,250, and he successfully completed two years of unsupervised probation. (Tr. 68; GE 2 at 1-2; GE 5; GE 5) He did not receive a conviction, and his record was expunged. (Tr. 68)

SOR ¶ 2.c alleges Applicant received treatment at an Army Alcohol and Substance Abuse Program (ASAP) from March 2016, to July 2016, for a condition diagnosed, in part, as Alcohol Abuse Disorder, Mild. (HE 2) He attended two classes or counseling sessions a week in ASAP during the four months of ASAP treatment. (Tr. 65) He was advised that he should not drink alcohol in the future; however, he was unsure whether this recommendation was limited to his time in ASAP or forever. (Tr. 66)

SOR ¶ 2.d alleges Applicant continued to consume alcohol, notwithstanding his treatment for Alcohol User Disorder, Mild or Moderate, as alleged in SOR ¶¶ 1.b and 2.c. (HE 2) He disagreed with the diagnosis of Alcohol Use Disorder. (Tr. 73) He said he rarely consumes alcohol, and when he does, it is usually to a moderate degree at social functions. (Tr. 37-38) He may not consume any alcohol for four to six months. (Tr. 39) He usually limits his alcohol consumption to two beers. (Tr. 38-39)

Applicant attended about 25 Alcoholics Anonymous (AA) meetings, and he received a chip. (Tr. 66) He was unsure whether the chip was for six months or one year of sobriety. (Tr. 67) He stopped attending AA meetings in May 2017, because he did not believe he was an alcoholic. (Tr. 63, 73) He found the AA meetings and the stories of others with drinking problems to be depressing. (Tr. 73) He does not crave alcohol. (Tr. 73) His support group consists of his family, coworkers, and pastor. (Tr. 40) If he has difficulties, he can talk to his support group and seek their assistance. (Tr. 41)

Character Evidence

A program manager who has worked closely with Applicant for almost four years described him as friendly, intelligent, professional, diligent, responsible, and conscientious. (Tr. 82, 85.) He is dedicated to his family. (Tr. 85) At social events, Applicant consumes alcohol at a responsible level. (Tr. 84)

A deputy director of a business unit, program manager, and senior network engineer where Applicant is employed has known Applicant since Applicant was 17 years old. (Tr. 89-90) When the deputy director was in the Army, he assisted in Applicant's transfer from the ARNG to the Army Reserve. (Tr. 91) The deputy director worked for the DOD contractor after retiring from the Army, and he recruited Applicant to work for him. (Tr. 91) Applicant works in his section and has been promoted to team lead. (Tr. 91)

Applicant is competent, productive, and trustworthy. (Tr. 92, 96) He considers Applicant's current level of alcohol consumption to be responsible. (Tr. 94-95)

Applicant received outstanding performance evaluations from the DOD contractor for 2020 and 2021. (AE A-AE B) He has excellent performance evaluations as an Army noncommissioned officer, except some of the performance reports note that he was unable to pass the Army physical fitness test. (AE C-AE N) His character evidence supports his continued access to classified information.

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. 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 about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. Thus, nothing in this decision should be construed to suggest that it is based, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President, Secretary of Defense, and DNI have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531. "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v.*

Washington Metro. Area Transit Auth., 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Psychological Conditions

AG ¶ 27 articulates the security concern for psychological conditions:

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.

AG ¶ 28 provides conditions that could raise a security concern and may be disqualifying 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.

The record establishes AG ¶ 28(b); however, AG ¶¶ 28(a), 28(c), and 28(d) are not established. Further details will be discussed in the mitigation analysis, *infra*.

Five mitigating conditions under AG ¶ 29 are potentially applicable:

(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 DOHA Appeal Board concisely explained Applicant's responsibility for proving the applicability of mitigating conditions as follows:

Once a concern arises regarding an Applicant's security clearance eligibility, there is a strong presumption against the grant or maintenance of a security clearance. See *Dorfmont v. Brown*, 913 F. 2d 1399, 1401 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991). After the Government presents evidence raising security concerns, the burden shifts to the applicant to rebut or mitigate those concerns. See Directive ¶ E3.1.15. The standard applicable in security clearance decisions is that articulated in *Egan, supra*. "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security." Directive, Enclosure 2 ¶ 2(b).

ISCR Case No. 10-04641 at 4 (App. Bd. Sept. 24, 2013).

The incident in March 2016 where Applicant consumed two bottles of wine, a six-pack of beer, and his spouse's prescribed Klonopin, and then entered his vehicle constitutes problematic behavior raising security concerns about his mental health. Dr. L concluded Applicant has a condition that may impair his judgment, stability, reliability, or trustworthiness establishing AG ¶ 29(b).

Applicant presented important good character evidence from coworkers and performance evaluations. This evidence from lay witnesses tends to mitigate security concerns. In ISCR Case No. 19-00151 (App. Bd. Dec. 10, 2019) the Appeal Board affirmed the grant of a security clearance in a case involving conflicting expert mental-health witness opinions, and cogently explained the necessity of reconciling opposing witness opinions stating:

A Judge is required to weigh conflicting evidence and to resolve such conflicts based upon a careful evaluation of factors such as the comparative reliability, plausibility, and ultimate truthfulness of conflicting pieces of evidence. *See, e.g.*, ISCR Case No.05-06723 at 4 (App. Bd. Nov. 4, 2007). A Judge is neither compelled to accept a DoD-required psychologist's diagnosis of an applicant nor bound by any expert's testimony or report. Rather, the Judge has to consider the record evidence as a whole in deciding what weight to give conflicting expert opinions. *See, e.g.*, ISCR Case No. 98-0265 at 4 (Mar. 17, 1999) and ISCR Case No. 99-0288 at 3 (App. Bd. Sep. 18, 2000).

After a careful review of the evidence, I believe Dr. L's 2019 diagnosis and prognosis continue to be accurate and reliable. Applicant's lay witnesses did not conduct psychological testing, review mental-health records, or engage in an in-depth mental-health interview of Applicant. The record documents a history of only one problematic episode in March 2016; however, Applicant has not received mental-health counseling or treatment from a mental-health practitioner for several years. Dr. L said:

[Applicant] has not received proper interventions for his mental health conditions, and has opted to discontinue treatment on his own. Given his minimization of his history, lack of sufficient treatment, minimal social support, and continued relationship with the individual that he identifies as the culprit for his past inappropriate behaviors, his prognosis is guarded. [Applicant's] judgment, reliability, and trustworthiness are likely to be impaired. (GE 4 at 4)

There is no professional opinion to refute the findings in Dr. L's 2019 evaluation, and he did not present persuasive evidence that he no longer is in need of treatment for anxiety or depression. I have lingering concerns that Applicant's mental-health condition may impair his judgment, stability, reliability, and trustworthiness. The absence of ongoing mental-health counseling may result in an adverse impact on national security. Security concerns under Guideline I are not mitigated at this time.

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 in this case 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 consumption¹ 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.

In March 2016, Applicant consumed two bottles of wine and a six-pack of beer. His BAC was .14. He was arrested for DUI. He was diagnosed with Alcohol Use Disorder, Mild or Medium. The record evidence establishes AG ¶¶ 22(a), 22(c), and 22(d). Additional discussion is in the mitigation section, *infra*.

¹ “Binge drinking is the most common pattern of excessive alcohol use in the United States.” See the Center for Disease Control website, (stating “The National Institute on Alcohol Abuse and Alcoholism defines binge drinking as a pattern of drinking that brings a person’s blood alcohol concentration (BAC) to 0.08 grams percent or above. This typically happens when men consume 5 or more drinks, and when women consume 4 or more drinks, in about 2 hours.”), <https://www.cdc.gov/alcohol/fact-sheets/binge-drinking.htm>.

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 credibly described his history of alcohol consumption. He successfully completed ASAP. His only arrest for an alcohol-related offense was a DUI arrest in March 2016. His alcohol consumption for the last four years is limited and responsible. He currently has control of his alcohol consumption, and it has a limited role in his life.

Applicant has demonstrated a clear and established pattern of modified alcohol consumption. Excessive alcohol consumption and future alcohol-related misconduct are unlikely to recur. His history of alcohol consumption does not cast doubt on his current reliability, trustworthiness, or judgment. AG ¶¶ 23(a) and 23(d) apply. Alcohol consumption security concerns are mitigated.

Whole-Person Analysis

In all adjudications, the protection of our national security is the paramount concern. A careful weighing of a number of variables in considering the "whole-person" concept is required, including the totality of Applicant's acts, omissions, and motivations. Each case is decided on its own merits, taking into consideration all relevant circumstances and applying sound judgment, mature thinking, and careful analysis. Under the whole-person concept, the administrative judge and the PSAB 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), “[t]he ultimate determination” of whether to grant a security clearance “must be an overall commonsense judgment based upon careful consideration of the guidelines” and the whole-person concept. My comments under Guidelines I and G are incorporated 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 a 40-year-old senior technical management lead over a team of three, soon to be five employees, and they perform laboratory work in the area of logistics data for a DOD contractor, and he has worked for his current employer since 2014. In 2000, he joined the ARNG, and in 2003, he was activated and sent to Iraq for almost 12 months. His MOS was information systems analyst operator. In 2008, Applicant received an honorable discharge from the ARNG. Shortly after leaving the ARNG, he joined the Army Reserve, where he honorably served until ETS in 2018.

The general sense of his character statements is that Applicant is competent, productive, trustworthy, friendly, intelligent, diligent, and conscientious. They did not provide any negative information about his mental health, work performance, disciplinary actions, and alcohol consumption. He is a valued asset to his company. His Army performance evaluations are excellent, and his contractor performance evaluations are outstanding. The character evidence supports his continued access to classified information.

Dr. L provided a detailed discussion of Applicant’s mental-health history, diagnosis, and prognosis. She reviewed his records, conducted a psychological test, and interviewed Applicant. Dr. L diagnosed him with Unspecified Anxiety Disorder, Unspecified Depressive Disorder, and Alcohol Use Disorder, moderate. Applicant’s responsible alcohol consumption after his DUI in 2016 establishes that his Alcohol Use Disorder is in remission. Dr. L concluded that Applicant’s “prognosis is guarded. [His] judgment, reliability, and trustworthiness are likely to be impaired.” (GE 4 at 4) Her diagnosis and prognosis cause persistent concerns about his current eligibility for access to classified information in light of the absence of evidence of ongoing mental-health counseling or treatment.

It is well settled that once a concern arises regarding an applicant’s security clearance eligibility, there is a strong presumption against granting a security clearance. See *Dorfmont*, 913 F. 2d at 1401. “[A] favorable clearance decision means that the record discloses no basis for doubt about an applicant’s eligibility for access to classified information.” ISCR Case No. 18-02085 at 7 (App. Bd. Jan. 3, 2020) (citing ISCR Case No. 12-00270 at 3 (App. Bd. Jan. 17, 2014)).

I have carefully applied the law, as set forth in *Egan*, Exec. Or. 10865, the Directive, the AGs, and the Appeal Board’s jurisprudence to the facts and circumstances

in the context of the whole person. Guideline G security concerns are mitigated; however, Guideline I security concerns are not mitigated.

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 I:	AGAINST APPLICANT
Subparagraphs 1.a and 1.b:	Against Applicant
Paragraph 2, Guideline G:	FOR APPLICANT
Subparagraphs 2.a through 2.d:	For Applicant

Conclusion

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

Mark Harvey
Administrative Judge