



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



In the matter of:	)	
	)	
	)	ISCR Case No. 22-00158
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Aubrey De Angelis, Esq., Department Counsel  
For Applicant: *Pro se*

November 10, 2022

**Decision**

Lokey Anderson, Darlene D., Administrative Judge:

**Statement of the Case**

On December 23, 2019, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On March 3, 2022, the Department of Defense Consolidated Adjudications Facility (DoD CAF) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline F, Financial Considerations; Guideline G, Alcohol Consumption; and Guideline I, Psychological Conditions. The action was taken under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the Adjudicative Guidelines (AG) effective within the DoD after June 8, 2017.

Applicant answered the SOR on March 31, 2022, and requested a hearing before an administrative judge. The case was assigned to me on May 5, 2022. The Defense Office of Hearings and Appeals issued a notice of hearing on May 16, 2022, and the hearing was convened as scheduled on July 21, 2022. The Government offered ten

exhibits, referred to as Government Exhibits 1 through 10, which were admitted without objection. The Applicant offered no exhibits, however, he testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on August 1, 2022.

### **Findings of Fact**

Applicant is 50 years old. He is married and has no children. He has a Master's degree in Information Security. He is employed by a defense contractor as a Systems Administrator III. He is seeking to obtain a security clearance in connection with his employment. Applicant began working for his current employer in April 2020. In his answer, Applicant admits each of the allegations set forth in the SOR under each of the three guidelines set forth below.

#### **Guideline F: Financial Considerations**

The Government alleged that Applicant is ineligible for a clearance because he made financial decisions that indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which raise questions about his reliability, trustworthiness and ability to protect classified information.

In February 2020, Applicant filed for Chapter 7 Bankruptcy. (See Government Exhibit 2.) The debts listed in the Chapter 7 Bankruptcy were discharged in July 2020. A Credit report of the Applicant dated February 1, 2022, confirms this bankruptcy. (Government Exhibit 3.) Applicant explained that he had a seizure at work in September 2019, and lost his job. He could no longer afford to pay the household bills. (Tr. p. 68.) He is the sole financial provider of the household, as his wife does not work outside of the home. The bills discharged were mainly credit cards that he was able to pay when he was employed. Some debt that was discharged were his wife's credit cards that he did not know about. He managed to keep the house and his student loan debt.

Applicant currently has no delinquent debt. He pays his bills on time, and lives within his means. He now uses a computer program to help him with his budget when he pays his monthly expenses. He now has money in his bank account, and three 401(k) accounts where he is saving for retirement.

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

The Government alleges that Applicant engages in excessive alcohol consumption that can lead to the exercise of questionable judgment or the failure to control impulses, and can raise questions about his reliability and trustworthiness.

Applicant has a history of alcohol consumption that began as an adolescent and has continued into adulthood, despite there being legal and occupational consequences. Applicant began consuming alcohol at sixteen years of age. He states that he usually consumes beer. Over the years, he has encountered problems at the

work place and outside of work from his excessive alcohol consumption. He was arrested in 1992, 1993, and 1997, for Driving Under the Influence of Intoxicants (DUI). Applicant does not recall the exact dates or all of the circumstances of the arrests. (Government Exhibits 5, 6, and 7.)

Applicant testified that following his second arrest for DUI, the court ordered him to attend Alcoholics Anonymous (AA) meetings for 90 days, at least once a week. (Tr. p. 30.) He remembers that after his first and second DUI, he was able to stop drinking for at least a month. (Tr. p. 31.) Regarding his third DUI in 1997, he really has no memory of it. He does know that the court sentenced him to complete 90 days of AA meetings again, and that he was placed on probation for a period of time. Following all three arrests for DUI, his driver's license was also revoked. After the first DUI, his license was revoked for 30 days; after the second DUI, his license was revoked for 90 days; and following the third DUI, his license was revoked for one year. (Tr. pp. 32-33.)

Applicant testified that while working for a defense contractor from 2007 to 2015, he was reported on two occasions by two different individuals because they could smell alcohol on his breath at work. He was warned that if it kept happening, he would be subject to disciplinary action, up to and including termination. (Tr. p. 36.) Applicant admits that he had been drinking prior to coming to work on the days that his breath smelled of alcohol. (Tr. p. 37.) He was drinking on average about a six-pack to a 12-pack of beer every other day, but did not feel impaired by his drinking. (Tr. p. 39.)

In November 2018, Applicant was working for another employer. On this occasion, he was sent home from work because alcohol was detected on his breath. Applicant believes that he had consumed three beers before going to work that day. (Tr. p. 41.) For about a month, from November 2018 to December 2018, he received counseling treatment for his alcohol abuse. Applicant stated that he met with a psychiatrist for half hour sessions. He did not find their discussions overly helpful, as it appeared to him that the psychiatrist seemed more concerned with other things. (Tr. p. 42.) Applicant was able to abstain from drinking alcohol for about two months following the work incident. (Tr. p. 43.)

It was not until March 2019, that Applicant realized that he had a real drinking problem and needed help. He knew that he was drinking heavily, consuming between 6-10 drinks on a daily basis. Through his Employee Assistance Program, he voluntarily sought out help for his alcohol problem. He was concerned that his drinking heavily might be related to his depression. (Government Exhibit 8.)

In March 2019, Applicant was called into work when he had been drinking earlier that day at home. He believes that he had consumed about five or six beers before going to work that day. Applicant arrived at work and smelled of alcohol. His employer required him to take a breathalyzer. Applicant registered a blood alcohol content of 0.167%. Applicant was terminated from his job. (Tr. pp. 43-44.)

Applicant entered a 30-day inpatient treatment program for alcohol abuse. From March 2019 to April 2019, he received intense treatment for alcohol abuse. During this

treatment program, Applicant was diagnosed with alcohol dependence, in remission. Applicant had one-on-one sessions with his therapist, attended counseling meetings, and participated in all aspects of the program as required. He was able to maintain complete sobriety for 100 days. (Tr. p. 46, and Government Exhibit 9.)

Applicant stated that following his in-patient treatment program, he was unemployed, depressed and drinking again. From September through October 2019, he was unemployed. He testified that he was not consuming much beer because food and bills came first and money was scarce. (Tr. p. 49.)

He last consumed alcohol about a week before the hearing. (Tr. p. 49.) He consumed a couple shots of Jim Beam and two beers. (Tr. p. 55.) In the last three months, Applicant consumed alcohol about once or twice a week. He usually consumes four or five beers on each occasion. Applicant testified that he was told by his primary physician that he should stop drinking.

Applicant was referred for evaluation to determine if he may have a condition or diagnosis, which if left untreated may disqualify him from being eligible to access classified information. During the evaluation by the psychologist on December 7, 2021, Applicant was diagnosed with alcohol use disorder moderate/severe. This evaluation was obtained through an interview with the Applicant, a comprehensive review of all medical records and supporting records provided by the DODCAF or his security manager. (Government Exhibit 8.)

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

The Government alleges that Applicant has an emotional, mental, and personality condition that can impair judgment, reliability, or trustworthiness. Applicant admits the allegation set forth under this allegation.

Applicant's evaluation discussed above also determined that Applicant was diagnosed with an unspecified depressive disorder. Results of the personality assessment indicated that he may be vulnerable to self-criticism, uncertainty and indecisiveness during periods of stress. The evaluator also stated that Applicant's long history of alcohol abuse with a lack of sustained abstinence inherently brings risk to his judgment and reliability. (Government Exhibit 8.)

### **Policies**

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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.

Directive ¶ E3.1.14, requires the Government to present evidence that establishes 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision."

A person who applies for access to classified information seeks to enter 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 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 F - Financial Considerations**

The security concern for Financial Considerations is set out in AG ¶ 18:

Failure to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or

unwillingness to abide by rules and regulations, all of which can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Financial distress can also be caused or exacerbated by, and thus can be a possible indicator of, other issues of personnel security concern such as excessive gambling, mental health conditions, substance misuse, or alcohol abuse or dependence. An individual who is financially overextended is at greater risk of having to engage in illegal or otherwise questionable acts to generate funds. Affluence that cannot be explained by known sources of income is also a security concern insofar as it may result from criminal activity, including espionage.

The guideline notes several conditions that could raise security concerns under AG ¶ 19. Two are potentially applicable in this case:

- (a) inability or unwillingness to satisfy debts; and
- (c) a history of not meeting financial obligations.

Applicant lost his job and was unable to pay his bills. He filed Bankruptcy in 2020 to discharge his delinquent debt. The evidence is sufficient to raise the above disqualifying conditions.

The following mitigating conditions under the Financial Considerations guideline are potentially applicable under AG ¶ 20.

- (a) the behavior happened so long ago, was so infrequent, or occurred under such circumstances that it is unlikely to recur and does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) the conditions that resulted in the financial problem were largely beyond the person's control (e.g. loss of employment, a business downturn, unexpected medical emergency, or a death, divorce, or separation), and the individual acted responsibly under the circumstances;
- (d) the individual initiated and is adhering to a good faith effort to repay overdue creditors or otherwise resolve debts; and
- (e) the individual has a reasonable basis to dispute the legitimacy of the past-due debt which is the cause of the problem and provides documented proof to substantiate the basis of the dispute or provides evidence of actions to resolve the issue.

Applicant suffered a seizure at work and was ultimately let go from his employment. As a result, he was unable to pay the household bills, as he was the sole financial provider in the family. He was forced to file bankruptcy to discharge the debt.

In this case circumstances beyond his control, namely his seizure and loss of employment, warranted his Bankruptcy filing. Accordingly, this allegation is found for the Applicant.

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

AG ¶ 21 expresses the security concern pertaining to alcohol consumption:

Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.

AG ¶ 22 describes conditions that could raise a security concern and may be disqualifying. The disqualifying conditions raised by the evidence are:

(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 was 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; and

(e) the failure to follow treatment advice once diagnosed.

Applicant's history of excessive alcohol consumption has resulted in three arrests for DUI's and various other problems at work. These incidents raise serious security concerns under AG ¶¶ 22(a), 22(b), 22(c), 22(d), and 22(e).

AG ¶ 23 provides conditions that could mitigate alcohol consumption 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 good judgment;

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

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

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

Applicant is an alcoholic with a long pattern of abusive drinking. Applicant has been arrested three times for DUI and has been warned and terminated by employers for having alcohol on his breath at work. Applicant has undergone a 30-day inpatient treatment program for his alcohol addiction, but has not been able to maintain sustained sobriety. Each time, he abstains from alcohol for a period before relapsing and returning to his regular drinking pattern of drinking. Applicant states that his goal is to quit drinking, but he is not there yet. Under the circumstances, Applicant has not demonstrated sufficient good judgment and reliability necessary to access classified information. ¶ 23 does not provide mitigation.

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

The security concern relating to the guideline for Psychological Conditions is set out in AG ¶ 27:

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

The guideline at AG ¶ 28 contains five conditions that could raise a security concern and may be disqualifying. Two conditions are strongly established 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; and

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

The guideline at AG ¶ 29 contains five conditions that could mitigate security concerns:

(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.

None of the mitigating conditions apply. Applicant has been diagnosed with an unspecified depressive disorder. This condition coupled with his excessive drinking can affected his judgment, reliability, and trustworthiness. There is no indication that his conditions are under control or in remission. Applicant's recent evaluation and diagnosis from a Government-approved evaluator indicates that his continued drinking brings a risk to his judgment and reliability. Accordingly, the Psychological Conditions guideline is found against Appellant.

### **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 facts and circumstances surrounding this case. I have incorporated my comments under Guidelines F, G, and I in my whole-person analysis. Based upon the facts and analysis set forth above, Applicant has failed to provide sufficient evidence to demonstrate that he meets the qualifications for a security clearance.

Overall, the record evidence leaves me with many questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Alcohol Consumption and Psychological Conditions security concerns. The Financial Considerations security concern is found for Applicant.

### **Formal Findings**

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

Paragraph 1, Guideline F:	FOR APPLICANT
Subparagraph 1.a.	For Applicant
Paragraph 2, Guideline G:	AGAINST APPLICANT
Subparagraphs 2.a., through 2.e.	Against Applicant
Paragraph 3, Guideline I:	AGAINST APPLICANT
Subparagraph 2.a.	Against Applicant

## **Conclusion**

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

Darlene Lokey Anderson  
Administrative Judge