



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



In the matter of: )  
)  
) ISCR Case No. 20-02676  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicholas T. Temple, Esq., Department Counsel  
For Applicant: Alan V. Edmunds, Esq.

11/02/2022

**Decision**

HARVEY, Mark, Administrative Judge:

Guidelines G (alcohol consumption) and J (criminal conduct) security concerns are not mitigated. Eligibility for access to classified information is denied.

**Statement of the Case**

On August 4, 2008, and October 5, 2018, Applicant completed and signed Questionnaires for National Security Positions (SF 86) or security clearance applications (SCA). (Government Exhibits (GE) 1 and 2). On March 26, 2021, 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 G and J. (HE

2) On November 5, 2021, Applicant provided a response to the SOR, and he requested a hearing. (HE 3) On January 10, 2022, Department Counsel was ready to proceed.

On January 27, 2022, the case was assigned to another administrative judge, and on April 8, 2022, the case was transferred to me for administrative reasons. On July 18, 2022, the Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing, setting the hearing for August 25, 2022. (HE 1) The hearing was held as scheduled.

Department Counsel offered seven exhibits into evidence, and Applicant offered ten exhibits into evidence, which included attachments to his SOR response. (Transcript (Tr.) 11-15; GE 1-GE 7; Applicant Exhibits (AE) A-AE J) There were no objections, and all proffered exhibits were admitted into evidence. (Tr. 13, 15) On September 7, 2022, DOHA received a transcript of the hearing.

I excluded some details 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 the allegations in SOR ¶¶ 1.a through 1.k, 2.a, 2.b and 2.c. (HE 3) He also provided clarifying and mitigating information. His admissions are accepted as findings of fact. Additional findings follow.

Applicant is a 59-year-old Principle Specialist in Program Management for a direct support DOD contractor who has supported the Army at an arsenal for 15 years. (Tr. 16, 23; GE 1; AE F) His current annual salary is \$120,000. (Tr. 16) He has worked as an engineer for 26 years. (AE F) In 1998, he was divorced, and he has a 15-year-old daughter who resides with her mother. (Tr. 17) He has a master's degree in engineering and a master's degree in business administration. (Tr. 17) In 2004, Applicant served a 12-month tour in Afghanistan. (Tr. 18) In 2003, when he was an Army major, he received a letter of reprimand for a driving under the influence of alcohol (DUI) which caused him to believe the Army would not promote him. (Tr. 32, 52) He is a major in the Army Retired Reserve. (Tr. 17, 23, 32) He received his 20-year Army Reserve retirement eligibility letter in 2005. (AE D) He served in the military for 23 years, and he honorably retired in 2009. (Tr. 18-19, 52) His resume provides additional information about his professional experiences and training. (Tr. 17; AE F) He has held a security clearance since 1983. (Tr. 18) There is no evidence of security violations. (Tr. 18-19)

Applicant received the following Army awards: Army Commendation Medal; Army Reserve Components Achievement Medal (5<sup>th</sup> Award); Global War on Terrorism Service Medal; Army Service Ribbon; National Defense Service Medal (2d Award); Afghanistan Campaign Medal; and Armed Forces Reserve Medal w/1 "M" Device and 10 Year Device (2d Award). (SOR response; AE C)

Applicant's 2019 and 2020 performance evaluations for his work as a DOD contractor indicate he "Surpasses Expectations." (AE G) In 2021, his Deputy Product Manager wrote:

[Applicant] has proven himself to be a highly effective contributor to the organization's mission. His work has been found to be at all times thorough, timely, and executed with an exceptional degree of precision and quality.

Through his professional conduct – he has established an exceptional level of credibility within the organization and has earned the respect of all members of the [contractor's] team. In some instances – [his] solutions have been held up as role models of task accomplishment and his solutions were documented and adopted as the organization's preferred approach to accomplishing similar assignments. He continues to be a highly valued member of the [contractor's] team. . . . (AE H)

Other coworkers and retired field grade officers lauded his diligence, trustworthiness, professionalism, and dedication to work and to his daughter. (AE H)

### **Alcohol Consumption and Criminal Conduct**

The record contains evidence that from December 1999 to November 2016, the police arrested Applicant for seven DUIs, two alcohol-related non-driving criminal offenses, and an alcohol-related probation violation. There is also evidence of his attendance at alcohol-related classes, counseling, therapy, and a 12-step treatment program.

SOR ¶ 1.a alleges in about December 1999, Applicant was arrested for DUI. He pleaded guilty to DUI, and the court ordered him to pay a fine and court costs. (GE 2 at 34-35)

Applicant's October 5, 2018 SCA indicates the police arrested him for DUI in about August 2000. (GE 2 at 35-36) He pleaded guilty to DUI, and the court ordered him to pay a fine and court costs. (GE 2 at 35-36) This DUI was not alleged in the SOR and will not be considered for disqualification purposes.

SOR ¶ 1.b alleges in about August 2003, Applicant was arrested and charged with DUI and fleeing or evading the police. He pleaded guilty to DUI, and the court ordered him to pay a fine and court costs. (GE 2 at 36-37) The court placed him on probation for 12 months. (*Id.*)

SOR ¶ 1.c alleges in about November 2003, Applicant was arrested and charged with DUI. He pleaded guilty, and the court imposed a fine and ordered probation and alcohol counseling. He paid all fines and costs and satisfied the terms of his probation. (GE 1 at 27)

SOR ¶ 1.d alleges in about November 2003, Applicant was diagnosed on Axis I with Alcohol Abuse. He was enrolled in the Army Substance Abuse Program (ASAP). (Tr. 34) He attended ASAP until he deployed to Afghanistan in May 2004. (Tr. 35) He did not continue with alcohol counseling after he returned from Afghanistan in May 2005. (Tr. 35) He did not consume any alcohol from November 2003 until 2011. (Tr. 36-37)

SOR ¶ 1.e alleges in about September 2011, Applicant was arrested and charged with DUI. He pleaded guilty to the lesser offense of failing to use due care when passing a stationary emergency vehicle. (GE 2 at 28; March 22, 2019 Office of Personnel Management (OPM) personal subject interview (PSI) at 3, GE 3) The court sentenced him to pay a fine and costs, to 12 months of probation, and to attend an Alcohol Highway Safety Program. (*Id.*)

SOR ¶ 1.f alleges in about August 2012, Applicant was arrested and charged with DUI. He drank eight to ten beers while boating. (March 22, 2019 OPM PSI at 3, GE 3) He drove away from the boating area, and he struck a pole with his vehicle. (Tr. 53) This was the only occasion where his DUI involved his vehicle being damaged in an accident. (Tr. 53) He did not remember his breathalyzer test result. (March 22, 2019 OPM PSI at 4, GE 3) He pleaded guilty to a lesser offense of operating a vehicle while visibly impaired (OWI), and the court sentenced him to pay a fine and costs. (*Id.*)

SOR ¶ 1.g alleges in about November 2013, Applicant was arrested and charged with Breaking and Entering, Illegal Entry, and Larceny. Alcohol was a factor in this incident. (March 22, 2019 OPM PSI at 5, GE 3) He went to his girlfriend's house, and a window was open. (Tr. 39) He entered her house when she was not home, and he took some gifts he made to her because he was upset that she was "cheating on him." (Tr. 39) He pleaded guilty to Breaking and Entering (illegal entry without the owner's consent). (GE 2 at 30) The court dismissed the larceny charge. (*Id.*) The court sentenced him to 24 months of probation, participation in a substance abuse program, 10 days of community service, a mental-health evaluation, and random alcohol testing. (*Id.*)

SOR ¶ 1.h alleges about in February 2015, Applicant violated probation, and his probation violation was detected through substance abuse testing. (March 22, 2019 OPM PSI at 5, GE 3) He served two days in jail for the probation violation. (*Id.*)

SOR ¶ 1.i alleges in about November 2015, Applicant was arrested and charged with Criminal Trespass. He and his girlfriend had an argument, and the hotel where they were staying told him to leave. (GE 2 at 41; March 22, 2019 OPM PSI at 6, GE 3) He refused to leave; the hotel called the police; and the police arrested him. (*Id.*; GE 2 at 41) Alcohol was a factor in this incident. He pleaded guilty to criminal trespass. (*Id.* at 32) The court sentenced him to pay a fine and to 90 days of probation. (*Id.*) The charge was dismissed after he completed probation. (*Id.*)

SOR ¶ 1.j alleges in about November 2016, Applicant was arrested and charged with DUI. Applicant's only listed blood alcohol content (BAC) result of .17 was from a blood test for this DUI. (March 22, 2019 OPM PSI at 6; GE 3) His highest blood-alcohol content in relation to his DUIs that he could remember was .17. (Tr. 52) He pleaded guilty to misdemeanor OWI II. (GE 2 at 33) The court sentenced him to pay a fine, to 24 months of probation, to participation in a substance abuse program, and to random alcohol testing. (*Id.*)

SOR ¶ 1.k alleges in about October 2018, Applicant discontinued alcohol treatment against advice. Applicant attended a behavioral health outpatient alcohol treatment

program (BHOATP) for nine months. (GE 4 at 1) The SOR does not allege; however, that the February 13, 2018 intake assessment form for the BHOATP says, "Client reports long Hx of alcohol dependence. Reports recent alcohol bender over the weekend, LDU 2/11/18." (GE 4 at 2) The BHOATP intake form indicates he "lacks insight into problem" and has low impulse control. (*Id.*) The BHOATP discharged him with a diagnosis of Axis I Alcohol Dependence. (*Id.*) He made "fair progress" while in the BHOATP. (*Id.*) The clinical recommendation was for him "to consistently attend Outpatient Treatment (individual and group) for relapse prevention purposes and to continue to build a sober support system." (*Id.* at 8) Applicant believed he had received all of the value that he was going to receive from BHOATP. (Tr. 41) He concluded his 12-step program was better than BHOATP at meeting his needs. (Tr. 41) He said he attended the 12-step program twice a week from 2018 to present. (Tr. 46)

SOR ¶ 2.a cross-alleges the information in SOR ¶¶ 1.a, 1.b, and 1.c under the criminal conduct guideline, and SOR ¶ 2.c cross alleges the information in SOR ¶¶ 1.e through 1.j under the criminal conduct guideline.

SOR ¶ 2.b alleges in about November 2008, Applicant was arrested and charged with Domestic Violence. Alcohol was not involved in the incident. (Tr. 29) Applicant and his spouse had a verbal argument. (March 22, 2019 OPM PSI at 2; GE 3) She wanted to call the police, and he would not let her use the phone. (*Id.*) He did not touch her or injure her. (*Id.*) He pleaded guilty, and the court ordered him to attend anger management classes. (*Id.*) After completion of all sentencing requirements, the record was sealed and expunged. (Tr. 29)

To summarize, from 1999 to November 2003, Applicant was arrested for four DUIs. He consumed excessive amounts of alcohol for several years during this period because of the stress and shock related to the end of his nine-year marriage in 1998. (Tr. 20, 30) He did not have any problems with alcohol for eight years (2003-2011). He was always alone in his vehicle when the police stopped him for DUIs. (Tr. 53)

Applicant relapsed in 2011 when his father passed away and due to a toxic romantic relationship. (Tr. 20, 37) From 2011 to 2016, he had five alcohol-related arrests and an alcohol-related probation violation. (Tr. 38) After his most recent DUI arrest in 2016, he attended several outpatient alcohol counseling and treatment programs. (Tr. 44-45) He ended the toxic relationship, and he does not associate with the people who consumed alcohol with him during the 2011 to 2016 time period. (Tr. 20) The police have not arrested him since 2016. (Tr. 20) He attends faith-based meetings in a 12-step program, which is similar to the 12-step program in the Alcoholics Anonymous (AA) program. (Tr. 21, 46-48) He accepted that he is an alcoholic. (Tr. 21) He does not intend to consume alcohol in the future. (Tr. 22) He denied that he was impaired at work by alcohol consumption. (Tr. 31, 53)

Applicant does not believe future incidents involving the police and courts will occur because he admitted his problem with alcohol, and he took action to address it. (Tr. 23) In 2003, and June 2007, he completed the ASAP training courses. (AE E) In April 2018, he successfully completed an intensive outpatient treatment program. (GE 4 at 7) He

denied any alcohol consumption after November of 2016. (Tr. 41; GE 2 at 42) He has a healthier lifestyle. (Tr. 51) He watches what he eats and exercises. (Tr. 51) He promised not to operate a motor vehicle after consuming alcohol. (Tr. 24; AE B) If he chooses to consume alcohol in the future, he promised to consume alcohol in a responsible manner. (AE B) He ended a stressful toxic romantic relationship, and he does not associate with others who abuse alcohol. (Tr. 23) He has continued his sobriety, associates with others who share his goal of sobriety, and he frequently attends his 12-step program. (Tr. 23; GE 2 at 50; GE 3 at 2) He did not provide a statement from his sponsor or other attendees of his 12-step program about his commitment to sobriety and his efforts to maintain his sobriety.

## **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, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

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 Director of National Intelligence 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**

### **Alcohol Consumption**

AG ¶ 21 articulates the Government’s concern about alcohol consumption, “[e]xcessive 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.”

Four alcohol consumption disqualifying conditions could raise a security concern and may be disqualifying in this case. AG ¶¶ 22(a), 22(c), 22(d), and 22(g) provide:

- (a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder;
- (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
- (d) diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder; and
- (g) failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

AG ¶¶ 22(a), 22(c), 22(d), and 22(g) are established. The SOR alleges nine alcohol-related incidents involving the police and courts (includes probation violation, but not unalleged DUI). Applicant was arrested or charged in 1999, 2003 (twice), 2011, 2012, 2013, 2015 (twice), and 2016 for alcohol-related offenses. Although the term “binge” drinking is not defined in the Directive, his .17 BAC is at a high enough level to establish Applicant engaged in binge-alcohol consumption to the extent of impaired judgment. He was diagnosed with alcohol dependence in 2018, which is equivalent to a diagnosis of alcohol use disorder. *Compare* the Diagnostic and Statistical Manual of Mental Disorders (DSM) 4<sup>th</sup> Edition (alcohol dependence) *with* DSM 5 (alcohol use disorder). He served two days in jail for testing positive for alcohol, in violation of his probation.

Four alcohol consumption mitigating conditions under AG ¶¶ 23(a)-23(d) are potentially applicable:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;

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

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

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

The 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).

Over the last 20 years, Applicant attended multiple alcohol education, counseling, and treatment programs. From 2003 to 2011, he was sober. During this eight-year period, he did not have any alcohol-related incidents involving the police or courts.

In addition, Applicant had one DUI in August 2000, which the SOR failed to list. The August 2000 DUI will only be considered as it relates to evaluating mitigation. See ISCR Case No. 20-01577 at 3 (App. Bd. June 6, 2022) (citing ISCR Case No. 03-20327 at 4 (App. Bd. Oct. 26, 2006) (listing the purposes for which non-alleged conduct can be considered)).

Applicant completed alcohol-related classes during the 1999 to 2003 time period, and he was sober from 2003 to 2011, a period of eight years. In 2011, Applicant resumed his alcohol consumption. From 2011 to 2016, he was arrested or charged six times for alcohol-related criminal offenses (includes a probation violation). His repeated alcohol offenses occurred despite the alcohol education, counseling, and therapy sessions that he completed prior to 2011. His multiple alcohol-related criminal offenses from 2011 to 2016 are relatively recent. Applicant believes the stressors in 2011 related to the death of his father and a bad romantic relationship caused him to relapse. In the future, he may suffer similar stressors.

The April 2018 IOP clinical recommendation was for Applicant “to consistently attend Outpatient Treatment (individual and group) for relapse prevention purposes and to continue to build a sober support system.” (GE 4 at 8) The October 2018 discharge summary said “Discontinuing treatment against advice.” (*Id.* at 1) Instead, Applicant elected to continue to attend a 12-step counseling program. He has stated that he refrained from alcohol consumption from November 2016 to present; however, under all the circumstances, there is insufficient time without alcohol consumption to fully establish mitigation. I have lingering concerns about a relapse and additional alcohol-related problems. Alcohol consumption security concerns are not mitigated at this time.

### **Criminal Conduct**

AG ¶ 30 describes the security concern about criminal conduct, “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 three conditions that could raise a security concern and may be disqualifying in this case:

- (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.

AG ¶¶ 31(a), 31(b), and 31(d) are established for the reasons stated in the alcohol consumption section.

AG ¶ 32 describes four conditions that could mitigate security concerns including:

(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;

(b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(c) no reliable evidence to support that the individual committed the offense; 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 presented some important mitigating information. He received job training and counseling; he obtained higher education; he successfully completed a career in the Army, including a combat tour in Afghanistan. His resume indicates he has achieved substantial professional development. He has two master's degrees. His alcohol-related offenses ended in 2016. He said he ended his alcohol consumption in November 2016.

The 2008 domestic violence arrest did not involve alcohol. No other similar offenses not involving alcohol occurred. This offense is isolated and not recent. No one was injured. The court subsequently dismissed the charge and sealed the record. The allegation in SOR ¶ 2.b is mitigated.

As discussed in the alcohol consumption section, Applicant's other arrests and convictions from 1999 to 2016 remain relevant as they show a pattern of disregarding laws and legal requirements. The offenses show serious lapses of judgment. They are alcohol-related. There is insufficient proof of rehabilitation. The totality of circumstances continues to cast doubt on Applicant's reliability, trustworthiness, and good judgment. Criminal conduct security concerns are not mitigated at this time.

## 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 the 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), "[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 G and J 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 59-year-old Principle Specialist in Program Management for a direct support DOD contractor who has supported the Army at an arsenal for 15 years. He has worked as an engineer for 26 years. He has a master's degree in engineering and a master's degree in business administration. From 2004 to 2005, he served a 12-month tour in Afghanistan. He received numerous Army awards and medals. He is a major in the Army Retired Reserve, and he honorably served in the military for 23 years. His resume provides additional information about his professional experiences and training. He has held a security clearance since 1983. There is no evidence of security violations.

Applicant's 2019 and 2020 performance evaluations indicate he "Surpasses Expectations." (AE G) His coworkers, including a supervisor, and retired field grade officers lauded his diligence, trustworthiness, professionalism, and dedication to work and to his daughter. The character evidence supports continued access to classified information.

Changes in Applicant's life, including the end of a toxic romantic relationship, and his rehabilitative efforts evidence a positive trend in his life. He has been educated about the risks of continued alcohol consumption for him. He has acknowledged that he is an alcoholic, and he has elected to refrain from all alcohol consumption. He has not been arrested since 2016.

Applicant's alcohol-related arrests, charges, and convictions from 1999 to 2003 and 2011 to 2016 show a pattern of disregarding laws and legal requirements. The arrests, charges, and convictions and alcohol abuse occurred while he had access to

classified information. More time without alcohol-related arrests is necessary to fully alleviate security concerns.

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)).

This decision should not be construed as a determination that Applicant cannot or will not attain the state of reform necessary for award of a security clearance in the future. With more effort towards establishing a longer track record of behavior consistent with his obligations, he may well be able to demonstrate persuasive evidence of his security clearance worthiness.

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. Guidelines G (alcohol consumption) and J (criminal conduct) 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 G:	AGAINST APPLICANT
Subparagraphs 1.a through 1.k:	Against Applicant
Paragraph 2, Guideline J:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	For Applicant
Subparagraph 2.c:	Against 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 or continue Applicant's eligibility for access to classified information. Eligibility for access to classified information is denied.

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Mark Harvey  
Administrative Judge