



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



In the matter of: )  
)  
) ISCR Case No. 22-00697  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Brian Farrell, Esq., Department Counsel  
For Applicant: Ronald Sykstus, Esq.

02/09/2023

**Decision**

RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the Guideline G, alcohol consumption security concerns. The Guideline H, drug involvement and substance misuse security concerns were not established. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 20, 2012, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline G, alcohol consumption. He requested a hearing before an administrative judge. The case was assigned to me, and I held the hearing on December 4, 2012. On December 31, 2012, I found Applicant mitigated the Guideline G, alcohol consumption security concerns that were raised and granted Applicant's eligibility for access to classified information. GE 6 is a copy of my decision.

On May 17, 2022, the Department of Defense (DOD) issued Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline G, alcohol consumption and Guideline H, drug involvement and substance misuse. 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 on June 8, 2017.

Applicant answered the SOR on July 8, 2022, and requested a hearing before an administrative judge. The case was assigned to me on October 25, 2022. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on November 4, 2022, scheduling the hearing for January 3, 2023, using Microsoft TEAMS. I convened the hearing as scheduled. The Government offered exhibits (GE) 1 through 7. Applicant and four witnesses testified. Applicant offered Applicant Exhibits (AE) A through G. There were no objections to any exhibits offered in evidence and all were admitted. The record was held open until January 17, 2023, to permit Applicant to provide additional documents, which he did. They are marked AE H through L and are admitted in evidence without objection. DOHA received the hearing transcript on January 18, 2023.

At Applicant's hearing, I confirmed with Applicant, his counsel, and Department Counsel that they were aware that I was the administrative judge that presided over Applicant's 2012 hearing. Applicant's counsel had represented him in the earlier hearing. I offered to recuse myself from conducting the present hearing and both sides stated on the record they had no objection to me presiding over the present hearing. (Transcript (Tr.) 6)

### **Findings of Fact**

Applicant admitted the allegations in SOR ¶¶ 1.a through 1.h with explanations. He denied the allegations in SOR ¶¶ 2.a and 2.b. His admissions are incorporated into the findings of fact. After a thorough and careful review of the pleadings, testimony, and exhibits submitted, I make the following findings of fact.

Applicant is 55 years old. He married in 2003 and has one child. He earned a bachelor's degree in 1993. He has worked for federal contractors since May 2010, except for periods of unemployment for three months in 2013 and from November 2011 to January 2013, when he worked for a commercial business. He has worked for his current employer, a federal contractor, since August 2019. (Tr. 17)

SOR ¶¶ 1.a through 1.d alleged alcohol-related conduct from January 2007 through October 2009, which Applicant testified about during his 2012 hearing. Applicant's Counsel stated he did not intend to rehash this information, standing on the prior testimony and findings of fact. (Tr. 22) I have incorporated my findings of fact for those allegations from my earlier decision as stated below. They are verbatim from my decision. (GE 6) The SOR allegations in the earlier decision are as follows:

SOR ¶ 1.a alleged that in about January 2007, Applicant resigned from employment because he had used a company laptop to view pornography while he was under the influence of alcohol and on temporary duty with his employment.

SOR ¶ 1.b alleged that after seven days of inpatient treatment for alcohol abuse in about July 2007, Applicant declined to follow his treatment provider's advice to enroll in an intensive outpatient program (IOP). He did not attend the IOP until March 2008.

SOR ¶ 1.c alleged that in about September 2009, Applicant received inpatient treatment for alcohol abuse for about 17 days.

SOR ¶ 1.d alleged that in about October 2009, Applicant overindulged in alcohol during a business trip to a foreign country and failed to attend any meetings during an entire week. He was fired from his job soon thereafter.

The following findings of facts below relate to the above allegations that were addressed during Applicant's first hearing and are also alleged on his later SOR.

Applicant did not struggle with alcohol abuse until approximately 2006. Around that time, his employer initiated an investigation into suspicious activity regarding Applicant's company's laptop computer. He was on administrative leave for six weeks until the investigation was completed. Specifically, the investigation involved Applicant allegedly accessing pornography on the computer. He admitted to surfing the web and accessing adult pornography. The investigation also revealed there were seven to eight personal photos of a sexual nature on his computer.

Applicant was devastated. While he was at home on administrative leave, he worried and began to drink alcohol during the mornings and afternoons. He was permitted to return to his work facility but could not have access to the government network. He became frustrated and continued to drink alcohol. In approximately December 2006, the investigation was completed. In January 2007, the results of the investigation determined that Applicant was surfing the internet for adult pornography on his company computer, and there were some private personal photos also on the computer. His employer gave him the option to resign or be terminated. He chose to resign. His wife was aware of his inappropriate use of his computer.

Applicant looked for a new job and continued to drink alcohol. He was hired in approximately March or April 2007 and worked until July 2007. In June 2007, he was advised that his security clearance was reinstated. During this period of time, he continued to drink alcohol, but stated his consumption was reduced.

Applicant was aware at this point that his drinking had become problematic. He thought he needed professional help. He sought help from the county mental-health center for depression and alcohol consumption. He was diagnosed as an alcohol abuser. He received some treatment but had to leave the facility because his health insurance would not cover the cost of treatment.

Applicant stated he was aware that something in his life had to change, and in July 2007, he received inpatient treatment at an alcohol treatment center and was diagnosed with alcohol withdrawal and dependence. He voluntarily sought this treatment. The normal course of inpatient treatment is 14 to 28 days. Applicant's health insurance would only pay for eight to nine days. He was isolated from external factors while he was an inpatient, so he progressed through treatment. He was discharged and went back to work with his former employer. He was told by the treatment counselor to participate in the follow-up outpatient program. He attended a couple of Alcoholic Anonymous (AA) meetings and some of the program's aftercare sessions, but he did not participate regularly or consistently in either. He casually began to resume drinking alcohol and did not perceive he was having any problems. He stated he did not consume alcohol for two and half weeks after his discharge.

From January 2008 to June 2009, Applicant received treatment from the state psychiatric services for depression and alcohol dependence. The treatment consisted of a six-week IOP, follow-up meetings with a physician and weekly aftercare meetings. Applicant admitted he participated only intermittently and discontinued at some point because he was back at work.

In August 2009, Applicant's consumption of alcohol began increasing. He had an incident at work where he failed to report for two days without telling his customer or employer. He stayed out of work for a couple of more days while he arranged to go back into treatment. His wife was unaware that he was staying home and not going to work. In September 2009, he received inpatient treatment again and completed the full course of treatment. He resumed drinking casually around October 2009 when he and his family went on vacation. In November 2009, Applicant and a coworker traveled to a foreign country to provide two weeks of training to that country's military. Applicant participated in the first week of training. He began drinking alcohol the second week and made excuses to his coworker that he was not feeling well enough to work. He would stay at the hotel during the day and continue to drink alcohol. His employer learned of his actions, and he was terminated.

Applicant was depressed and drinking. In February 2010, Applicant stated he got seriously involved in his recovery. He began looking for a job. He resumed his attendance of AA meetings and was working with a sponsor a couple of times a week. He admitted to himself he had a serious problem with alcohol dependence. Applicant stated he did not drink any alcohol from February 2010 until May 2011.

In late April 2011, Applicant's community experienced a devastating tornado. Because they were without electricity, they cooked on outdoor grills. On May 1, 2011, they learned that the terrorist Osama Bin Laden had been killed. His neighbor brought out a bottle of alcohol to pass around as a toast in celebration. Applicant stated he took a swig from the bottle. He stated he did not really think about it. His old pattern of thought came to him, and he thought perhaps it was okay to have a drink now and again. He wrestled with whether to tell his AA sponsor. He decided to tell his sponsor and recommit

to the AA program. He credibly testified at his first hearing that he had not consumed any alcohol since May 1, 2011.

Applicant admitted that he was stubborn about his recovery. He finally got to a point where he got tired of his struggle with alcohol. He chose to live a life of principles and sobriety. He had the support of AA, his family, and his friends. It was an ongoing process. Applicant stated at his first hearing that although he was not consuming alcohol, he had to pay attention every day and be mindful of his recovery. He had accepted that he is an alcoholic. He attended AA meetings a couple of times a week. He talked to his sponsor. He helped organize and participated in meetings at the treatment center where he attended. At that time, he attended at least two AA meetings a week sometimes he attended three to five meetings, depending on his schedule. He completed the 12-step program of AA and was continuing to work through the steps again. As he got further away from his last drink there was less of a daily struggle, but he continued to be vigilant. He said he was committed to staying sober each day. Applicant stated:

I'd like to give you 100 percent assurances that I will never take a drink again. And I feel the chances are very close to that if I continue to do what I've become comfortable with doing on a daily basis and, you know, practicing these principles. And I've got a good support system both AA based and family and friend based. And I feel confident about that.

Applicant's wife became aware that his drinking was becoming problematic and his consumption was increasing. She was supportive in his sobriety and attended a three-day program for family members of alcoholics provided by his treatment center to educate her on how to help him with his sobriety and recovery. She also attended Al-Anon when she felt she needed the support. She believed Applicant had difficulties believing he was a good husband and father, and so he would drink. She was convinced her husband was committed to sobriety. He made a commitment to be employed and was fully vested in his efforts to change his ways. She believed he now realized how much he lost and was remorseful about his past actions. She believed because he knew how much he had to lose, he would continue to remain sober. She noticed a significant change in him since he acknowledged his problems and committed to sobriety. She and her husband were communicating better. She supported him when he wanted to go to AA meetings and never questioned him in that regard. (GE 6)

The following facts are from Applicant's recent hearing. In his March 2020 security clearance application (SCA), Applicant disclosed his 2007 seven-day inpatient alcohol treatment and his 2008 six-week IOP follow-up for alcohol abuse. He further disclosed his September 2009 inpatient alcohol treatment and counseling for 17 days. He disclosed that in August 2019, he completed a 21-day inpatient alcohol and treatment counseling program and a follow up IOP for 12 session, each lasting three to four hours. He reported ongoing attendance at a follow-up continuing care meeting once a week for an hour and that he is participating in a 12-step recovery program. (GE 1)

In May 2020, Applicant was interviewed by a government investigator. He said that in 2014, his AA sponsor passed away and he did not obtain a new sponsor. In 2016, he started drinking again. From spring 2016 to October 2018, his alcohol consumption progressed to where he was drinking daily. He testified that he was drinking daily between a ½ pint and a fifth of liquor. He testified that he struggles with his drinking when he has challenges. He would occasionally drink in the morning but would then not go to work. He would sometimes stay away from work for a couple of days. He would occasionally leave work early so he could drink. He would not drink at home. He said things had gotten very bad at work because his drinking was affecting his motivation. His wife was not aware of his drinking. He would hide his liquor in the garage. (Tr. 25-27, 79-86; GE 3, 7)

In October 2018, he recognized he needed to get back on track with his sobriety. He voluntarily enrolled in a four-day detoxification program. He told the investigator that he was sober for about two months. He said he thought he just needed the detoxification program and a new AA sponsor, and he would be back on track. Applicant admitted at his hearing that he left the detoxification program early. Post-hearing, he later clarified that it was because his insurance would only authorize payment for four days. He was encouraged by the staff to stay, but he left against their medical advice. The discharge summary notes that he did not want to stay in the program beyond the four days. He said he was leaving due to commitments to family, work, and his long-term AA program outside of the medical facility. In December 2018, he went on a cruise and started drinking again. He began increasing his alcohol consumption and frequency and by August 2019, he was consuming alcohol daily. He continued to hide his drinking from his wife and lie to her. He did not think there was any specific stressor going on in his life at the time that prompted him to drink. (Tr. 27-31, 76-77, 88-95, 100-101; GE 3, 4, 7; AE K)

Applicant told the investigator that in August 2019, he decided the four-day detoxification program he participated in October 2018, did not work. Applicant voluntarily enrolled in a 21-day inpatient alcohol treatment program. He told the investigator that he successfully completed the program and a follow-on outpatient program, which involved 12 sessions, each lasting three to four hours. He also participated in continuing care once a week and AA meetings twice a week. He said he had not consumed alcohol since August 2019. He said he felt like he was back where he needed to be and it was not a struggle or an issue to remain sober. He had not participated in any additional alcohol-related counseling or treatment at that time. (Tr. 32-33, 87; GE 7)

Applicant testified that after August 2019 he had an AA sponsor and stayed sober until November 2020, when he was preparing a meal and one of the ingredients was red wine. He took a gulp of the wine. He said within seven days he had progressed to daily drinking. He estimated he was drinking between a pint and a fifth of bourbon daily. He was in a state of depression and despair. He had been participating in AA but started to slack off. He entered alcohol treatment and was in a 21-day inpatient treatment program. He did not contact his AA sponsor when he started to drink again but waited until he was admitted into the inpatient program. (Tr. 34-39, 85-86)

Applicant testified that he has been sober since November 11, 2020. He testified about what has changed. He said he is now plugged in with AA and is consistent with his attendance. His 2020 treatment was organized differently, and he is now with a group of men around his age. He felt there was a deeper sense of the spiritual side of recovery, where he is more focused. He is following the 12-step AA program and is being responsible as a trusted servant. He is now more active in the program and serves in different positions, including being a chairman for monthly business meetings. He said he is also a sponsor for three others who reach out to him. He attends 3 to 5 meetings per week and in the past attended 7 to 12 meetings a week. He provided attendance sheets from his AA meetings to corroborate his meeting attendance from December 2020 to January 2023. (Tr. 39-44, 99, 105; AE J)

Applicant acknowledged that he cannot give 100% assurance that he will not drink in the future. He acknowledged he has a disease and that if he consumes one drink it will set off a cycle of destructive behavior. He is not sure if he consumes alcohol again if he will be able to recover and that scares him. He has a responsibility to his family and his employer, which he takes seriously. He said he has the support of his family, friends, and coworkers who know he is working on his sobriety. (Tr. 42-46, 56, 107-108)

Applicant testified that in 2005 he was prescribed Norco, a painkiller, by his family doctor, due to a sciatic problem with his back. The prescription is to take one tablet twice a day as needed for pain. In the last five years, he estimated he takes it about two to three times a week on average and only if Ibuprofen does not work. He will usually take half a tablet, but if the pain is severe, he will take the full tablet twice a day, as prescribed. He credibly testified that he does not use it for any other purposes. He knows that as an alcoholic it could be dangerous with his brain chemistry. He said that he has never felt a compulsion to attempt to increase its effect. He stated that alcohol is one thing and opiates are another. He disputed that when he was admitted for alcohol treatment in 2019 that he said he took more Norco than was prescribed. He stated what he told the medical staff was that he took more than he usually takes, but not more than was prescribed. He is aware drugs and alcohol do not mix and he does not use them beyond what is prescribed. Applicant has not discussed his alcoholism with his family doctor. Applicant's doctor who prescribes the medication provided a written statement regarding Applicant's use. He confirmed Applicant has used it for many years, and he does not have any concern that he is abusing it. I found Applicant's statement credible that he did not exceed the prescribed dosage. (Tr. 51-55, 59-74; AE D)

Applicant participated in a psychological evaluation by a government-employed psychologist, Dr. F, in August 2021. The interview lasted approximately eight hours and was conducted in person. Dr. F provided a detailed narrative that for the most part coincides with the facts of Applicant's past alcohol abuse. Dr. F diagnosed Applicant with major depressive disorder, recurrent, exacerbated by grief/loss in sustained remission; and alcohol use disorder, severe in sustained remission. He believed Applicant is more committed to working his AA program this time around and to saving his family and career. He believes he has a much better support groups in AA, his worksite coworkers plus management, and his family and friends. Applicant understands the triggers to his

relapse. His prognosis is good, and Dr. F did not find Applicant's alcohol abuse would have a negative impact on his reliability, stability, judgment, or trustworthiness. (Tr. 47-50; GE 3)

Applicant participated in a one-hour Zoom evaluation by a government-employed psychologist, Dr. B, in February 2022. Applicant said he told Dr. B that he had been evaluated in August 2021, and she told him that this evaluation must be a follow-up check-in conversation. Dr. B described Applicant as evasive. He answered her questions and was not sure how much detail she wanted because he was told it was a wellness check. Dr. B indicated she gave Applicant the Personality Assessment Inventory (PAI) test and the validity scales indicated he was consistent in his responding, and did not attempt to over or under report symptoms or behaviors that individuals commonly admit to. However, she found that certain aspects of the profile raise the possibility of denial problems with drinking and drug abuse. Dr. B diagnosed Applicant with alcohol use disorder, severe; major depressive disorder, recurrent, unspecified severity; generalized anxiety disorder; opioid disorder; tobacco use disorder; pornography addiction R/O, which means rule out. She did not find Applicant truthful during the interview. She derived her diagnostic impressions primarily from her clinical judgment and medical record review. She found Applicant may be unreliable or untrustworthy, impulsive, engage in dangerous activities, or take unnecessary risks and his prognosis is poor. (Tr. 47-50; GE 2)

Applicant's wife testified. She has tried to support her husband. She believes he has been sober for more than two years and is actively participating in AA. His drinking has been stressful on their marriage. In the past, she was confident that he would maintain his sobriety, but believes this time he is dedicated and committed to it. She has never observed him abuse Norco and does not believe he abuses it. She believes he has a disease that only he can control. He is a good man and wants to do the right thing. She has known he is an alcoholic since about 2006. Most of the time he would not divulge to her he was drinking. He would not tell her the truth about his drinking. She would bring his drinking to his attention and remove the alcohol from the house, but she could not stop him. (Tr. 110-122)

Applicant's AA sponsor testified on his behalf. He has been his sponsor for about three or four years. He said Applicant is doing great and attends a lot of meetings. They get together about once or twice a month and see each other at meetings. He believes Applicant's sobriety is solid and he is a man of integrity. Applicant has followed his AA plan, but has stumbled when he relapsed in 2020. Since then, he has been in compliance. Applicant has sought assistance from his sponsor. (Tr. 123-130)

A character witness testified on Applicant's behalf. He has held a security clearance for 25 years. He was Applicant's supervisor who fired him in 2009 when he was drinking on a work trip in a foreign country. He was offered an opportunity to rehire Applicant for a specific contract and chose not to because he wanted to see how he was performing elsewhere. A couple of years later, he noted a change in Applicant and believed he was in a good spot and was low risk. He rehired him in July 2019. He is now



a level above Applicant's supervisor. Applicant is doing well at his job, and he does not have a concern about him having access to classified information. (Tr. 24, 131-141)

Applicant's facility security officer testified on his behalf. They have worked together since 1998. She is aware of the concerns about his issues with alcohol. He has been upfront with her and self-reported his issues. When he went back into treatment in November 2020, he talked to her about it. She believes he is a person of integrity. He is professional and meticulous in his work. She does not have concerns about his alcoholism. (143-148)

Character letters were provided from Applicant's sister and longtime friend. He is described as intelligent, reliable, dependable, and beloved. They believe that Applicant is totally committed to his sobriety this time because he is immersed in AA and more active and determined. (AE H, I)

Applicant provided his employee performance evaluations for 2020, 2021, and 2022. He is consistently evaluated in the different performance categories as excellent and outstanding. (AE A, B, C)

### **Policies**

When evaluating an applicant's national security eligibility, the administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are 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, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for national security eligibility will be resolved in favor of the national security." 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.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Directive ¶ E3.1.15 states an "applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or

mitigate facts admitted by applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable security decision.”

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk that an applicant may deliberately or inadvertently fail to 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 decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

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

AG ¶ 21 expresses the security concern for 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. I find the following to be potentially applicable:

(a) alcohol-related incidents away from work, such as driving 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; and

(d) diagnosis by a duly qualified medical or mental health professional (e.g. physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder;

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

(f) alcohol consumption, which is not in accordance with treatment recommendations, after a diagnosis of alcohol use disorder.

Applicant received treatment for alcohol abuse and was diagnosed with alcohol dependence after he received inpatient treatment at an alcohol rehabilitation facility several times from June 2007 to September 2009. Excessive alcohol consumption impaired his judgment. He failed to show up for work due to his alcohol abuse and was terminated. While on a business trip to a foreign country he consumed alcohol and failed to do his job.

In October 2018, Applicant was hospitalized as an inpatient for alcohol abuse. He was diagnosed with alcohol use disorder, severe. In about August 2019, he was hospitalized for 21 days as an inpatient for alcohol abuse treatment and another 12 days for IOP. He was diagnosed with alcohol use disorder, severe. In November 2020, he was hospitalized for about 21 days for alcohol abuse. Government psychologists evaluated him in 2021 and 2022. Both diagnosed him with alcohol abuse disorder, severe. Dr. B opined that his mental health issues could make him unreliable, untrustworthy, impulsive and that he may engage in dangerous activities and take unnecessary risks. His prognosis was poor. The other Government psychologist found his prognosis was good and did not have the same concerns. There is sufficient evidence to apply all of the above disqualifying conditions.

The guideline also includes conditions that could mitigate security concerns arising from alcohol consumption. I have considered the following mitigating conditions under AG ¶ 23:

(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 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 continues to struggle with his alcoholism. He relapsed after treatment numerous times. He repeatedly commits to his sobriety and abstaining from alcohol consumption only to become lax and fall back into his same pattern of drinking. Although his wife supports his sobriety, he hides his drinking and lies to her about it. He has an AA sponsor with whom he has been with for several years, but he has had a sponsor in the past and still continued to relapse. He is an active participant in the AA program, which again he has been in the past. During his 2012 hearing, he said he attended meetings and took on leadership roles in AA, which he testified that he is doing again since recommitting to the program. During his first hearing, he explained that he was now fully committed to his sobriety. I found him credible in 2012, and I believe each time he fails, he recommits himself. I found Applicant credible in his earnest attempt to remain sober. At his first hearing, he had been sober 19 months. He was given a second chance and granted eligibility to access classified information.

In 2016, Applicant resumed drinking and in October 2018, he participated in a detoxification program. Shortly after completion, he resumed drinking in December 2018. He participated in a 21-day inpatient treatment program in August 2019, followed with a 12-day IOP and resumed drinking in November 2020. He is participating in AA and says he has been sober since November 2020. He believes that this time he will be able to remain sober. Although alcoholism is a disease and his body reacts to it in a negative way, it does not impede Applicant's ability to make a choice about whether to drink or not. He repeatedly makes the wrong choice. Based on the frequency of Applicant's past alcohol abuse and conduct, not enough time has passed to conclude future problems will not recur. AG ¶ 23 (a) does not apply.

Applicant has acknowledged his alcohol use and his actions to overcome the problem. I have no evidence that Applicant is participating in any program except AA, which is an acceptable program. It appears he is following the program, but again without a significant long period of sobriety, I cannot find that any of the remaining mitigating conditions fully apply.

#### **Guideline H: Drug Involvement and Substance Misuse**

The security concern relating to the guideline for drug involvement and substance misuse is set out in AG ¶ 24:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may

lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations.

AG ¶ 25 provides conditions that could raise security concerns. The following are potentially applicable:

(a) any substance misuse; and

(d) diagnosis by a duly qualified medical or mental health professional (e.g. physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder.

I have considered all of the evidence and conclude that there is insufficient evidence that Applicant misused the painkiller he was prescribed. I found Applicant's testimony credible that he usually took less than prescribed and when he explained he took more, he meant it was more than he usually took, not more than prescribed. I have considered the statement from his prescribing physician that Applicant has been in compliance and that of his wife who has not observed him abuse the drug. I have also considered Dr. B's diagnosis and did not find it as probative as the totality of the evidence. The above disqualifying conditions do not apply, and I find in Applicant's favor under this guideline.

### **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), 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 the facts and circumstances surrounding this case. I have incorporated my comments under Guidelines G and H in my whole-person analysis.

Applicant failed to meet his burden of persuasion. The record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For these reasons, I conclude Applicant failed to mitigate the security concerns arising under Guideline G, alcohol consumption. I find in his favor for Guideline H, drug involvement and substance misuse.

### **Formal Findings**

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

Paragraph 1, Guideline G:	AGAINST APPLICANT
Subparagraphs 1.a-1.h:	Against Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraphs 2.a-2.b:	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 security to grant Applicant's eligibility for a security clearance. Eligibility for access to classified information is denied.

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Carol G. Ricciardello  
Administrative Judge