



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



In the matter of:	)	
	)	
	)	ISCR Case No. 21-01675
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Alison O’Connell, Esq., Department Counsel  
For Applicant: *Pro se*

05/01/2023

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**Decision**

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RICCIARDELLO, Carol G., Administrative Judge:

Applicant failed to mitigate the security concerns under Guideline G, alcohol consumption and Guideline I, psychological conditions. Guideline E, personal conduct was refuted. Eligibility for access to classified information is denied.

**Statement of the Case**

On June 29, 2022, the Department of Defense issued to Applicant a Statement of Reasons (SOR) detailing security concerns under Guideline E, personal conduct, 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; Department of Defense (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 on June 8, 2017.

Applicant answered the SOR on July 17, 2022, and elected to have her case decided on the written record in lieu of a hearing. Department Counsel submitted the

Government's file of relevant material (FORM), and Applicant received it on October 27, 2022. She was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation within 30 days of receipt of the FORM. The Government's evidence is identified as Items 4 through 7 (Item 1 is the SOR and Items 2 and 3 are administrative documents). Applicant did not respond to the FORM, provide documentary evidence, or object to the Government's evidence. The Government's evidence is therefore admitted. The case was assigned to me on January 27, 2023.

### **Findings of Fact**

Applicant admitted all of the SOR allegations. After a thorough and careful review of the pleadings and exhibits submitted, I make the following findings of fact.

Applicant is 60 years old. She was married from 1988 to 1993. She remarried in 2020. She has an adult daughter. She has been employed by a federal contractor since August 2019.

In approximately May 2016, Applicant recognized she had issues with alcohol and began attending Alcoholics Anonymous (AA). Between May 2016 and late 2017, she relapsed about once a quarter by drinking one to two bottles of wine on each occasion. She then abstained from alcohol consumption between late 2017 and March 2019. (Item 6)

In March 2019, while working at a military retail facility on a military base, Applicant consumed three small bottles of wine that she had brought to work with her in her purse. She told the investigator that she had been under a lot of stress due to her upcoming wedding and because she was offended that one of her co-workers wore his pants low, and she was able to see his buttocks. She had previously registered a complaint with her manager about how her coworkers dressed but was told there was nothing that could be done about it. Applicant became intoxicated while at work. A coworker approached and told her she was being relieved from her shift. Applicant went home because she was intoxicated. She told the investigator that the next day she contacted her manager and told him she was resigning from her position because she was a recovering alcoholic and she had relapsed. She said she would not be returning to work because she needed to focus on herself and her recovery. Her manager agreed with her, and she never returned to work. She denied she was fired. (Item 6)

Applicant completed a security clearance application in August 2019. She did not disclose that she left her position in May 2019 after being relieved from her shift for being intoxicated, and then resigned. (Item 4)

In October 2019, Applicant was interviewed by a government investigator. During her interview, she disclosed that in 2013, she had gastric-bypass surgery. Around that time, she began consuming alcohol. She said she replaced her food addiction with alcohol addiction. Her father passed away in 2013. Due to grief, loneliness, and stress, she began

consuming one to two bottles of wine a day and became intoxicated each time. She would occasionally have hallucinations while intoxicated. (Items 6 and 7)

Applicant was asked by the government investigator why she failed to disclose that she left her employment in March 2019 due to her alcohol incident and relapse, and she said she was embarrassed. She admitted that alcohol had a negative impact on her professional life because she had to leave her position. Her alcohol consumption impacted her relationship with her daughter and her daughter's fiancé. Her daughter bought breathalyzers to monitor Applicant's consumption. She told the investigator that she will always be a recovering alcoholic, and she will continue to attend AA meetings. (Item 6)

There is no evidence that Applicant has participated in alcohol counseling, but she reported to the investigator that she attended AA in May 2016 until August 2019 twice a day, and she reported that she attended about three times a week from August 2019 to October 2019. During her interview with the government investigator, she stated she had been sober since August 2019. In May 2022, Applicant completed government interrogatories and confirmed the accuracy of her statement to the investigator. She did not provide any updated information about whether she continues to attend AA; whether she has sought alcohol counseling; whether she has continually abstained from alcohol consumption; and whether she has had any relapses. (Item 6)

In October 2020, Applicant was evaluated by a government-approved, licensed psychologist, Dr. L. Applicant disclosed to the psychologist that she had a history of depression and had attempted suicide twice in the past three years. Her first attempt in 2017 involved an overdose of pills, and she was taken to the hospital by ambulance. The second attempt was after she lost her job in 2019 for drinking alcohol. She reported that she attempted to slice her wrists, which required a home visit from a mental health agency. The psychologist noted that Applicant reported that she had been diagnosed with depression in the past and was presently prescribed psychotropic medications. She receives medicine management through her general physician, though at the time of her psychological evaluation, she had been referred to a psychiatrist, whom she had not yet seen. Applicant also reported that she had been in recovery from alcohol use for approximately 18-19 months. She described her support in managing her alcohol addiction was through AA and her husband and daughter. (Item 7)

Dr. L diagnosed Applicant with major depressive disorder (moderate) and alcohol abuse disorder, in remission. Her psychological evaluation noted that Applicant had persistent mental health issues and potential neurocognitive challenges that warranted concern about her overall functioning. Dr. L noted that Applicant's issue with her mood appears to be influenced by complicated and unprocessed grief surrounding her father's passing. In addition, Dr. L opined that while Applicant's alcohol addiction is in sustained remission, Applicant continued to demonstrate limited coping capacity to manage psychosocial stressors. As such, her risk for relapse and emotional dysregulation in response to situational stressors in her environment remained a concern. (Item 7)

Dr. L also noted that Applicant failed to disclose her mental health issues and addiction issues on her SCA. Applicant reported to the government investigator that she was embarrassed about her alcohol issues. Dr. L opined that her embarrassment is consistent with Applicant's immense shame surrounding her mental health and recovery. She stated that her level of shame and associated vulnerability warrant concern around potential implications as it pertains to holding a security clearance, as Applicant's lack of candor and forthcomingness indicate unprocessed issues that may make her susceptible to manipulation. (Item 7)

Dr. L opined that Applicant's current level of functioning may interfere with her judgment, reliability, and trustworthiness. She also noted that Applicant's alcohol abuse was being managed presently with a prolonged period of sobriety and consistent engagement in AA. (Item 7)

### **Policies**

When evaluating an applicant's suitability for national security eligibility, 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 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 concerns 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 security concerns and may be disqualifying. I find the following to be potentially applicable:

(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 others, regardless of whether the individual was 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.

In March 2019 Applicant consumed alcohol at work, became intoxicated, and was sent home. The next day she spoke with her manager and resigned from her job. She admitted she is an alcoholic and has had several relapses from 2016 to 2019. In October 2020, Applicant was diagnosed by Dr. L, a qualified clinical psychologist, with alcohol use disorder in remission. Dr. L opined that while Applicant’s alcohol addiction is in sustained remission, she continues to demonstrate limited coping capacity to manage psychosocial stressors. As such, her risk for relapse and emotional dysregulation in response to situational stressors in her environment remains a concern. The above disqualifying conditions apply.

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; and

(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.

Applicant has had an alcohol problem since 2013. She has attended AA and has the support of her husband and daughter. She told the government investigator that she relapsed quarterly from May 2016 until late 2017. She continued going to AA. She relapsed again in March 2019, when she was experiencing stress due to her upcoming wedding and from a coworker's attire. Applicant disclosed her alcohol issues to the government investigator in October 2019 and Dr. L in October 2020. In June 2022, she certified through her interrogatories that the information she told the government investigator was accurate. She did not provide any updated information as to the status of her recovery or if she has experienced any more recent relapses. She did not provide information as to whether she is attending alcohol counseling; whether she continues to attend AA; or whether she pursued other counseling regarding her alcohol or other mental health issues. She did not provide any information in response to the FORM. The most current information about her alcohol abuse is from her psychological evaluation with Dr. L in October 2020. I am unable to conclude without more recent information that she has had an extended period of sobriety and a future relapse is unlikely to recur. I find the above mitigating conditions do not apply.

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

The security concern 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 interference concerning the standards in this guideline may be raised solely on the basis of mental health counseling.

The guideline notes several conditions that could raise security concerns. I have considered all of the disqualifying conditions under AG ¶ 28, and the following are potentially applicable:

- (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.

Applicant was evaluated by a DOD-approved licensed psychologist, Dr. L, in October 2020. Dr. L diagnosed her with major depressive disorder (moderate) and alcohol abuse disorder, in remission. Applicant's psychological evaluation noted that she has been dealing with depression since approximately 1988 and since then she has had bouts of depressive symptoms and suicide ideations. She attempted suicide in 2017 and again in 2019. She also had an alcohol relapse while at work in May 2019. Applicant takes psychotropic medication. Dr. L noted that Applicant has not been able to deal with her problems since her father passed away in 2013. Dr. L opined that Applicant's mood issues seem to be influenced by complicated and unprocessed grief. Her persistent mental health issues and potential neurocognitive challenges warrant concern about Applicant's overall functioning. Dr. L opined that Applicant's current level of functioning may interfere with her judgment, reliability, and trustworthiness. The above disqualifying conditions apply.

The guideline also includes conditions that could mitigate security concerns arising from psychological conditions. The following mitigating conditions under AG ¶ 29 were considered:

- (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.

Applicant did not provide sufficient evidence to conclude that any of the above mitigating conditions apply.

### **Guideline E, Personal Conduct**

AG ¶ 15 expresses the security concern for personal conduct:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. I find the following potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities.

Applicant failed to disclose in her August 2019 SCA that she had resigned from her position after being relieved by a coworker and sent home from work after she was consuming alcohol on the job. There is insufficient evidence that she left her job by mutual agreement. She likely may have been fired for her actions, but the evidence does not reflect that happened. The evidence does not support the above disqualifying condition.

### **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, I, and E in my whole-person analysis.

Applicant failed to meet her burden of persuasion. The record evidence leaves me with 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 security concerns raised under Guideline G, alcohol consumption, and Guideline I, psychological conditions. The alleged security concern under Guideline E, personal conduct, was refuted.

### **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.b:	Against Applicant
Paragraph 2, Guideline I:	AGAINST APPLICANT
Subparagraphs 2.a-2.b:	Against Applicant
Paragraph 3, Guideline E:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

## **Conclusion**

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the national 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