

KEYWORD: Alcohol; Personal Conduct

DIGEST: Applicant consumed alcohol excessively between 1990 and 2003, resulting in two alcohol-related arrests. She intentionally omitted relevant, material information about her alcohol abuse history from a 2002 security clearance application, and continues to drink enough alcohol to render her lethargic and hungover at work approximately once every other month. Clearance is denied.

CASENO: 05-03192.h1

DATE: 06/21/2007

DATE: June 21, 2007

In re:)	
)	
-----)	
SSN: -----)	ISCR Case No. 05-03192
)	
Applicant for Security Clearance)	
)	

**DECISION OF ADMINISTRATIVE JUDGE
MARC E. CURRY**

APPEARANCES

FOR GOVERNMENT

Richard A. Stevens, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

____ Applicant consumed alcohol excessively between 1990 and 2003, resulting in two alcohol-related arrests. She intentionally omitted relevant, material information about her alcohol abuse

history from a 2002 security clearance application, and continues to drink enough alcohol to render her lethargic and hungover at work approximately once every other month. Clearance is denied.

STATEMENT OF THE CASE

On January 12, 2007, the Defense Office of Hearings and Appeals (DOHA) issued Applicant a Statement of Reasons (SOR) explaining why it was not clearly consistent with the national interest to grant or continue a security clearance. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended. DOHA received her answer and request for a hearing on February 7, 2007.

The case was assigned to me on April 12, 2007. DOHA issued a notice of hearing on May 2, 2007, scheduling it for May 22, 2007. During the hearing, I received five government exhibits, three Applicant exhibits, and Applicant's testimony. DOHA received the transcript on June 4, 2004.

FINDINGS OF FACT

_____The SOR admissions are incorporated into the findings of fact. In addition, I make the following findings of fact.

Applicant is a 37-year-old woman with three children, ages 16, 12, and 9. She has a high school education. Since 2001 she has worked as a data collector responsible for testing and maintaining military tactical vehicles.¹ She is an integral part of the test evaluation team.² She frequently completes tests "ahead of schedule and under budget."³

Applicant has been drinking alcohol since age 19. When she first began, she drank approximately one to three beers per weekend.⁴ By age 25, her consumption had increased to six to 12 beers per weekend.⁵ By the late 1990s, her consumption increased to the point where she was arriving at work hungover and lethargic approximately once a week.⁶

¹Tr. 29.

²Exhibit B, Reference Letter from Senior Test Director, dated April 16, 2007.

³Exhibit A, Memorandum of Appreciation from Automotive Test Director (undated).

⁴Tr. 23.

⁵Exhibit 2, Signed, Sworn Statement, dated May 8, 2003, at 5.

⁶*Id.* at 2.

In June 1999, Applicant was arrested and charged with Driving While Under the Influence of Alcohol (DUI). She received probation before judgment, fined, sentenced to 15 months probation, and ordered to receive alcohol counseling.⁷

Consistent with the court order, Applicant attended outpatient alcohol counseling from December 1999 to July 2000. It consisted of group therapy once per week, and Alcoholic's Anonymous session twice a week.⁸ Although Applicant was never diagnosed with alcohol dependence, the record is inconclusive with respect to whether she was diagnosed with alcohol abuse. She completed the counseling successfully. The clinician recommended that she "remain abstinent while increasing knowledge of alcohol abuse and alcoholism."⁹

Applicant remained alcohol-free for the remainder of probation. After it ended, she resumed consuming alcohol at the pre-arrest level.¹⁰ She was arrested and charged again with DUI in May 2003. She was found guilty and sentenced to three years probation.¹¹

At the hearing, Applicant testified that she currently only drinks alcohol on birthdays and holidays.¹² Later, she testified that she still comes to work hungover once every two months.¹³

On February 1, 2002, Applicant electronically submitted a security clearance application (SF 86). She omitted her 1999 arrest and charge of DUI in response to Question 24 (*Your Police Record - Alcohol/Drug Offenses Have you ever been charged with or convicted of any offenses related to alcohol or drugs?*). Also, she omitted alcohol-related counseling she attended from December 1999 to July 2000, in response to Question 30 (*Your Use of Alcohol In the past 7 years, has your use of alcoholic beverages (such as liquor, beer, or wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism?)*).

During a 2003 interview with an investigator, she stated she omitted the 1999 charge because she thought she only had to disclose it if it resulted in a conviction, and she omitted the counseling because she was "afraid [she] would not get her security clearance if [she] had listed it."¹⁴ When asked why she excluded the counseling at the hearing, she testified, "I don't know why I put 'no.'"¹⁵

⁷Answer, received by DOHA February 12, 2007.

⁸Exhibit 5, Alcoholism Treatment Record, dated December 27, 1999 to July 12, 2000.

⁹*Id.* at 5.

¹⁰*Id.* at 5.

¹¹Answer.

¹²Tr. 58.

¹³Tr. 50.

¹⁴Exhibit 2 at 5.

¹⁵Tr. 54.

POLICIES

The adjudicative guidelines, as revised December 29, 2005, and implemented September 1, 2006, apply to the analysis of this case. In addition to brief introductory explanations for each guideline, they are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (disqualifying conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (mitigating conditions).

Because the entire process is a scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future.

The following adjudicative guidelines are raised:

Guideline G - 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.

Guideline E - 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.

Conditions pertaining to these guidelines that could raise a security concern and may be disqualifying, as well as those which could mitigate security concerns, are set forth and discussed in the conclusions below.

Since the protection of national security is the paramount consideration, the final decision in each case must be reached by applying the standard that the issuance of the clearance is "clearly consistent with the national interest."¹⁶ In reaching this decision, I have drawn only those conclusions that are based on the evidence contained in the record.

The Government is responsible for presenting evidence to establish facts in the SOR that have been controverted. The applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by the Government, and has the ultimate burden of persuasion as to obtaining a favorable security decision.

¹⁶See generally, Directive, Sec. 2.3, Sec. 2.5.3, Sec. 3.2, and Sec. 4.2.

CONCLUSIONS

Alcohol Consumption

Between 1990 and 2003, Applicant consumed alcohol heavily, and was arrested twice for DUI. Alcohol Consumption Disqualifying Conditions (AC DC) 22 (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 whether the individual is diagnosed as an alcohol abuser or alcohol dependent*, and AC DC 22 (c): *habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent*, apply.

I have considered all the mitigating conditions and conclude none apply. The fact that Applicant has not had another DUI arrest since 2002 weighs in her favor. However, she provided contradictory evidence with respect to how much alcohol she currently drinks. These contradictions in tandem with the lack of credibility demonstrated by falsifying the SF-86¹⁷ undermine the probative value of her contention that her alcohol use no longer poses a concern. Applicant has not mitigated the alcohol consumption security concern.

Personal Conduct

Applicant's SF-86 omissions trigger the issue of whether Personal Conduct (PC DC) 16 (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*, applies. Applicant's credibility was undermined by her multiple explanations for the omissions. PC DC 16 (a) applies without mitigation, and she has not mitigated the personal conduct security concern.

Whole Person Concept

By failing to disclose relevant information about her alcohol history when completing her SF-86, Applicant elevated personal expedience over truth. In doing so, she generated unmitigated security concerns relating to both her personal conduct, and her alcohol consumption. Upon evaluating Applicant's security clearance worthiness in the context of the whole person concept, I conclude she has not mitigated the security concerns. Clearance is denied.

FORMAL FINDINGS

¹⁷See Personal Conduct section, *infra*.

Paragraph 1 – Guideline G:	AGAINST APPLICANT
Subparagraph 1.a:	Against Applicant
Subparagraph 1.b:	Against Applicant
Subparagraph 1.c:	Against Applicant
Subparagraph 1.d:	Against Applicant
Paragraph 2 - Guideline E:	AGAINST APPLICANT
Subparagraph 2.a:	Against Applicant
Subparagraph 2.b:	Against Applicant

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Marc E. Curry
Administrative Judge