



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



|                                  |   |                        |
|----------------------------------|---|------------------------|
| In the matter of:                | ) |                        |
|                                  | ) |                        |
|                                  | ) | ISCR Case No. 06-23241 |
| SSN:                             | ) |                        |
|                                  | ) |                        |
| Applicant for Security Clearance | ) |                        |

**Appearances**

For Government: Gina Marine, Esquire, Department Counsel  
For Applicant: Pro Se

June 27, 2008

**Decision**

---

HENRY, Mary E., Administrative Judge:

Based upon a review of the case file, pleadings, exhibits, and testimony, I conclude that Applicant's eligibility for access to classified information must be denied.

Applicant submitted his Security Clearance Application (SF 86), on February 23, 2006. On December 28, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns under Guidelines J, G and E for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on January 17, 2008. He answered the SOR in writing on January 20, 2008, and again on March 5, 2008. He requested a

hearing before an administrative judge. DOHA received the request in March 2008. Department Counsel was prepared to proceed on April 17, 2008, and I received the case assignment on April 21, 2008. DOHA issued a notice of hearing on May 9, 2008, and the Applicant received the hearing notice on May 13, 2008. I convened the hearing as scheduled on June 5, 2008. The government offered 19 exhibits (GE) 1 through 19, which were received and admitted into evidence without objection. Applicant testified on his own behalf. He submitted one exhibit (AE) A, which was received and admitted into evidence without objection. DOHA received the transcript of the hearing (Tr.) on June 16, 2008. The record closed on June 5, 2008.

### **Findings of Fact**

In his Answers to the SOR, dated January 20, 2008 and March 5, 2008, Applicant alleged that ¶¶ 1.a, 1.b, 2.a and 2.b were the same, as were ¶¶ 1.j, 1.k, 2.g, and 2.h. He admitted allegations 2.e and 2.f. Based on these admissions, I find that he also admitted the allegations in ¶¶ 1.e and 1.f. He denied the factual allegations in ¶¶ 1.d and 2.d of the SOR. Concerning the remaining allegations, Applicant neither admitted nor denied the allegations, although he provided some information on ¶¶ 1.c, 1.g, 1.j., 1.k., 2.c, 2.g, 2.h, 3.a, and 3.b. I find these allegations denied.

Applicant, who is 44 years old, works for a Department of Defense contractor as a sodder. He began his current job in February 2006. He completed his security clearance application at the time he began his job.<sup>1</sup>

Applicant began drinking as a young man. His Federal Bureau of Investigation (FBI) criminal record report indicates that the police in City A arrested and charged him with felony fleeing, driving on a suspended license and possession of marijuana in 1985, when he was 21 years old. The record also reflects that no complaint was filed on the felony fleeing charge and contains no information on the remaining two charges. At the hearing, Applicant denied that he had been arrested in City A because he had lived in City B since 1969. He, however, did not deny that he had been arrested on the charges identified in the FBI records. He further agreed that he appeared in court in June 1986 on these charges. The court dropped the speeding charge, but fined him \$80 on the marijuana charge. He has not smoked marijuana in 13 years and last tried cocaine 10 years ago. Based on Applicant's credible testimony, I find that the allegations ¶¶ 1.a and 1.b are the same and are not alcohol-related.<sup>2</sup>

In March 1988, Applicant and a friend stopped at a restaurant and ordered pizza. While waiting outside for the pizza, they purchased a six-pack of beer and began drinking the beer. After purchasing the pizza, they started to leave. The police stopped them and gave them a ticket for drinking in public. Applicant has no memory of an arrest

---

<sup>1</sup>GE 1 (Applicant's security clearance application, dated February 23, 2006).

<sup>2</sup>SOR at 1; GE 6 (United States Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services, dated March 16, 2006) at 2; Tr. 23-24, 48-49.

in August 1988 for driving under the influence (DUI)- property damage. The government submitted no documents which establish this incident and it is not listed on the FBI report.<sup>3</sup>

In November 1989, Applicant attended an evening party on the north side of town where he drank alcohol. On his way to his home on the south side of town, he stopped at a construction site to leave a friend, who was working nights, a meal. To reach the construction site, he drove down a street the wrong way, the only way he could approach the construction site. The police observed his conduct, then pulled him over. The police ticketed him for DUI, DUI over .10% and driving the wrong way on a one-way street. He pled guilty to DUI and the court fined him.<sup>4</sup>

Applicant married in 1994. He has a son from this marriage, who is 13 years old. He and his wife, who is a police officer in City B, divorced in 1999. He and his wife have joint custody of their son, but she has primary physical custody.<sup>5</sup>

In 1998, while still married, Applicant began drinking at home while taking care of his young son. After consuming the beer at home, he decided to drive to the store to buy more beer. He put his 4-year-old son in the car and drove to the store. At some point in time, an unknown female got in this car. He denies knowing her name or the reason she was in his car. The police stopped him; they arrested and charged him with child abuse, a felony, DUI, and DUI with alcohol concentration .10 or more as his breathalyzer results showed an alcohol level of .188. He pled guilty to criminal negligence. The court sentenced him to one day in jail, then placed him on three years probation, which was reduced to 18 months. The court also directed that he attend alcohol awareness training, alcohol counseling, and remain sober for two years.<sup>6</sup>

Applicant complied with the terms of his sentence, including remaining sober. He attended 36 hours of a level one alcohol counseling program. The program information sheet indicates that he admitted alcohol abuse, that he was cooperative and compliant, but only minimally participated in the counseling sessions.<sup>7</sup>

In October 2002, Applicant's former wife refused to allow him his usual weekend visit with his son because Applicant intended to pick up his son and drop his son at Applicant's mother's house, while Applicant went out for the evening. Later that evening,

---

<sup>3</sup>GE 4 (Interrogatories and Applicant's answers, dated October 9, 2007) at 2; GE 6, *supra* note 2, at 2-3; Tr. 25-26.

<sup>4</sup>Tr. 26-27, 50.

<sup>5</sup>GE 1, *supra* note 1, at 10-11, Tr. 21-22.

<sup>6</sup>GE 4, *supra* note 3, at 2; GE 16 (Police report, dated February 15, 1998); GE 18 (Court record); Tr. 27-28, 52-56.

<sup>7</sup>GE 19 (Report of alcohol counseling program, dated September 21, 1998).

Applicant observed his former wife at a bar. He learned that she had dropped their son at her mother's house for the evening. Applicant became angry. He called his former wife's house and left an obscene message on her answering machine. She filed a complaint against him. The police arrested and charged him with harassment in October 2002. He pled guilty to this charge. Applicant denied alcohol was the reason for his conduct.<sup>8</sup>

On January 16, 2003, Applicant started drinking early. He had not eaten when he and his brother decided to ride their motorcycles. The police observed a traffic violation and stopped them. The police charged him with unsafe lane change, following too closely, DUI, extreme DUI, and DUI with BAC of more than .08. Applicant's breathalyzer results revealed a blood alcohol content of .193. Applicant pled guilty to DUI and the court dismissed the remaining charges. The court sentenced him to 90 days in jail, with 85 days suspended; placed him on 18 months probation; fined him approximately \$1,400; and directed he attend alcohol counseling.<sup>9</sup>

Applicant complied with the terms of his sentence, including remaining sober for 18 months. He attended 36 hours of alcohol counseling. The program noted his abstinence. It concluded that long-term sobriety would be difficult.<sup>10</sup>

In December 2004, Applicant attended a club with a friend. He drank three beers while watching a game. He and his friend left the club. On his way home, the police stopped him and charged him with failure to stop for a red light, improper right turn, DUI, and DUI more than .08. His breathalyzer test showed a blood alcohol of .082. At the court hearing in May 2005, the prosecutor dismissed these charges and the court dismissed a charge for violation of a promise to appear.<sup>11</sup>

Applicant contends that the allegations in SOR ¶¶ 1.j, 1.k, 2.g, and 2.h. are the same incident. The police report reflects that the police arrested Applicant on January 4, 2006 for DUI, stop sign violation, failure to show driver's license, and DUI with BAC of .08 or more, not on January 5, 2005. The police report number is identical to the number listed on the FBI records report for the January 5, 2005. I find that the date on the FBI report is a clerical error and that the above allegations are the same.<sup>12</sup>

On January 4, 2006, the arresting police officer smelled alcohol on Applicant's breath when he stopped Applicant for traffic violations. The police officer sought to

---

<sup>8</sup>GE 15 (Police report, dated October 2002); GE 17 (Court record); Tr. 28-30, 56.

<sup>9</sup>GE 12 (Police report, dated January 6, 2003); GE 13 (Court disposition record); Tr. 30-31, 56-58.

<sup>10</sup>GE 14 (Counseling program report, dated June 28, 2003).

<sup>11</sup>GE 10 (Police report, dated November 29, 2004); GE 11 (Court records); Tr. 32-33, 59.

<sup>12</sup>GE 6, *supra* note 2, at 3; GE 7 (Police report, dated January 4, 2006) at 1; GE 8 (Court records, showing same police report number) at 1; Tr. 34-36.

perform field sobriety tests and a breathalyzer test, which Applicant refused. The police obtained a warrant and drew Applicant's blood for testing. The results are not in the record. At a preliminary hearing, the court granted Applicant's motion to suppress, and dismissed all charges against Applicant without prejudice. The State has not re-filed the charges against Applicant.<sup>13</sup>

At the hearing, Applicant admitted that his drinking problem is that he drinks and he wants to drink. He admitted that he sometimes shows questionable judgment when drinking and cannot control his impulses all of the time. He does not participate in any alcohol counseling because he did not learn anything from the earlier sessions. He doesn't drink when his son visits and may not drink for weeks. When he drinks, it may be alone or with others.<sup>14</sup>

Applicant completed his SF-86 on February 23, 2006. He answered "no" to the following question:<sup>15</sup>

Question 25. Your Use of Alcohol

"In the last 7 years, has your use of alcoholic beverages (such as liquor, beer, wine) resulted in any alcohol-related treatment or counseling (such as for alcohol abuse or alcoholism)?"

Applicant acknowledged that his answer to this question should have been "yes". He had no explanation for why he responded "no".

Applicant responded "yes" to the following question on his SF-86, but failed to list all his alcohol related arrests:

Question 23. Your Police Record

d. "Have you ever been charged with or convicted of any offense(s) related to alcohol or drugs?"

In responding to this question, Applicant listed his 2001 arrest and his 1986 arrest, but did not list his arrests in 1988, 1989, 1998, 2003, 2004, and 2006. At the beginning of the hearing, Applicant asked why he needed to list any arrests which had been dismissed. He did not understand the reason for listing the two arrests which had been dismissed by the courts or the prosecutor. Because the investigator asked him about some of his alcohol-related arrests, he thought he had listed them on the SF-86.

---

<sup>13</sup>GE 7, *supra* note 12; GE 8, *supra* note 12; Tr. 34-37.

<sup>14</sup>Tr. 64-68.

<sup>15</sup>Government Exhibit 1, *supra* note 2, at 1, 10-11.

He did list his 1998 DUI and alcohol counseling on his 2000 SF-86. He does not recall incidents which occurred 15 or 20 years ago.<sup>16</sup>

Applicant's supervisor provided a favorable recommendation on his behalf. She stated that he is a dedicated, hard worker who takes pride in his work. He has strong problem solving skills and is self-directed. He arrives to work on time every day as scheduled.<sup>17</sup>

## Policies

When evaluating an Applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful 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 over-arching adjudicative goal is a fair, impartial and common sense 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 access to classified information will be resolved in favor of 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. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant 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

---

<sup>16</sup>GE 1, *supra* note 1, at 20-22; Tr. 14, 19-20, 39-47.

<sup>17</sup>AE A (Letter, dated June 5, 2008).

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 the Applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

Section 7 of Executive Order 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 J, Criminal Conduct**

AG ¶ 30 expresses the security concern pertaining to 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 describes conditions that could raise a security concern. The following conditions may be disqualifying:

- (a) a single serious crime or multiple lesser offenses;
  
- (c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted;

The police arrested and charged Applicant with alcohol-related offenses on six occasions over a period of 18 years. The police also arrested him once for possession of marijuana and once for telephone harassment. The court dismissed two alcohol arrests; however, the court convicted Applicant on the remaining offenses. The government has not established that the arrest in SOR ¶ 1.d relates to Applicant. Thus, this allegation is found in favor of Applicant. In addition, the allegations in SOR ¶¶ 1.a and 1.j are duplicative and are found in favor of Applicant. Based on the remaining allegations in the SOR, Disqualifying Conditions 31 (a) and 31 (c) apply.

Under AG ¶ 32, the following conditions could mitigate security concerns:

- (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;
  
- (c) evidence that the person did not commit the offense; and

(d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

Even though the prosecutor chose to withdraw the 2004 DUI charges against Applicant and the court dismissed the charges related to his January 2006 arrest, these facts do not establish that Applicant did not commit these offenses. Applicant does not deny driving after drinking on these occasions. Thus, Applicant has not established mitigation of the allegations in SOR ¶¶ 1.i and 1.k under AG ¶ 32 (c).

More than 20 years ago, the police arrested Applicant for drug possession, his only arrest for this criminal conduct. He ceased using drugs at least 10 years ago by his own choice. There is little likelihood that Applicant will use drugs in the future given his conscious decision. Applicant's telephone call to his former wife happened over six years ago. His arrest and subsequent sentence led to his rethinking this particular conduct. He has not made any harassing telephone calls to his former wife and there is little likelihood he will do this again. Applicant has mitigated the government's concerns regarding the allegations in SOR ¶¶ 1.b and 1.g.

For the last 20 years, the police have arrested and charged Applicant with six alcohol -related offenses, including his drinking in public. Two offenses occurred nearly 20 years ago; however, the fact that these offenses are old is not sufficient to establish mitigation because Applicant chose to continue drinking and driving, which resulted in four more alcohol arrests, the last just two years ago. Applicant has not mitigated the government's concerns about his drinking and driving conduct because the record shows a long history of this conduct. Given that Applicant continues to drink, there is a real possibility he will be arrested in the future for DUI.

### **Guideline G, Alcohol Consumption**

AG ¶ 21 expresses the security concern pertaining to alcohol consumption, "Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness."

Under AG ¶ 22, the following disqualifying conditions could raise a security concern in this case:

(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;



(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; and

(d) diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence;

(e) evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program;

Applicant received five DWIs for driving after drinking and the police arrested him once for drinking in public. Except for the arrests in 1998 and 2003, he continued to drink and drive. He still consumes alcohol, but not on a daily basis. The record does not contain any evidence that shows a diagnosis of alcohol abuse or alcohol dependent. A security concern is raised under the disqualifying conditions in AG ¶¶ 22 (a) and (c). Because Applicant cannot remember anything about the 1988 DUI arrest and could remember some information about his other DUI arrests, the government has not established the allegation in SOR ¶ 2.b. As SOR ¶ 2.g is the same as ¶ 2.h, I find this allegation in favor of Applicant.

AG ¶ 23 provides conditions that could mitigate security concerns:

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

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

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

(d) the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant continues to consume alcohol although not on a daily basis. His last DUI arrest occurred two years ago and reflects a 20-year pattern of drinking and driving. While he attended two court ordered alcohol counseling sessions, he does not currently participate any counseling program, despite a recommendation that he do so by the counselor in 2003. He likes to drink and intends to drink in the future even though he acknowledges he sometimes shows questionable judgment when drinking and cannot always control his impulses when he has been drinking. The Applicant has not mitigated the government's concerns about his alcohol consumption under AG ¶ 23.

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

AG ¶ 15 expresses the security concern pertaining to 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(a) describes conditions that could raise a security concern and may be disqualifying:

(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;

The government established that Applicant omitted material facts from his SF-86 when he answered "no" to the question Section 25 about his past counseling for alcohol consumption and when he failed to list all his alcohol arrests after answering "yes" to question d in Section 23. This information is material to the evaluation of Applicant's trustworthiness to hold a security clearance and to his honesty. For this guideline to apply, Applicant's omission must be deliberate. He denies, however, that he deliberately falsified his answer to these questions. When a falsification allegation is controverted, the government has the burden of proving it. Proof of an omission, standing alone, does not establish or prove an applicant's intent or state of mind when the omission occurred. An administrative judge must consider the record evidence as a whole to determine whether there is direct or circumstantial evidence concerning an applicant's intent or state of mind at the time the omission occurred.<sup>18</sup> For DC ¶ 16 (a) to apply, the government must establish that Applicant's omission, concealment or falsification in his answer was deliberate.

---

<sup>18</sup>See ISCR Case No. 03-09483 at 4 (App. Bd. Nov. 17, 2004)(explaining holding in ISCR Case No. 02-23133 at 5 (App. Bd. Jun. 9, 2004)).

At the time he completed his SF-86, Applicant knew he had been arrested for DUI, public drinking and telephone harassment. Because his last two DUI cases had been dismissed by the courts, he erroneously assumed that he did not need to list them. His erroneous assumption is insufficient to establish a deliberate intent to hide these two DUI arrests. However, Applicant's failure to list any of his DUI's coupled with his failure to admit he attended alcohol counseling in 1998 and 2003 must be considered an attempt to hide the alcohol-related problems, particularly since his problems caused by his drinking continued. The disqualifying condition raised by AG ¶ 16 (a) applies.

Under AG ¶ 17, the following conditions could mitigate the government's security concerns:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(e) the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress.<sup>19</sup>

In his 2000 security clearance application, Applicant acknowledged his 1998 arrest and court ordered alcohol counseling. If this were his only alcohol-related arrest and only alcohol counseling in the last 10 years, mitigation would be possible because of the passage of time and the small likelihood of reoccurrence. However, in the last five years, he has been arrested three more times for DUI and attended an alcohol counseling program for the second time. He continues to drink, an activity which has the potential for more arrests. He candidly admits that his drinking can impair his judgment. He has not mitigated the government's security concerns.

### **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(a):

(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.

---

<sup>19</sup>The other potential mitigating conditions listed under AG ¶ 17 are not applicable in this case.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall common sense 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. Applicant's problems with the police began 20 years ago and are the result of his decision to consume alcohol. He abstains from drinking when his son visits. His drinking does not impact his work performance, his reliability, or his attendance. However, he has shown a pattern of conduct over the last 20 years, which will continue because he still wants to drink. He knows his drinking can affect his judgment, especially about driving. There is a likelihood that he will be arrested again for DUI. He has not mitigated the government's concerns about his alcohol use and its impact on his life.

Overall, the record evidence leaves me with questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant has not mitigated the security concerns arising from his alcohol consumption, criminal conduct, and personal conduction.

### **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 J: | AGAINST APPLICANT |
| Subparagraph 1.a:         | For Applicant     |
| Subparagraph 1.b:         | For Applicant     |
| Subparagraph 1.c:         | Against Applicant |
| Subparagraph 1.d:         | For Applicant     |
| Subparagraph 1.e:         | Against Applicant |
| Subparagraph 1.f:         | Against Applicant |
| Subparagraph 1.g:         | For Applicant     |
| Subparagraph 1.h:         | Against Applicant |
| Subparagraph 1.i:         | Against Applicant |
| Subparagraph 1.j:         | For Applicant     |
| Subparagraph 1.k:         | Against Applicant |
| Paragraph 2, Guideline G: | AGAINST APPLICANT |
| Subparagraph 2.a:         | Against Applicant |
| Subparagraph 2.b:         | For Applicant     |
| Subparagraph 2.c:         | Against Applicant |
| Subparagraph 2.d:         | Against Applicant |
| Subparagraph 2.e:         | Against Applicant |
| Subparagraph 2.f:         | Against Applicant |

|                   |                   |
|-------------------|-------------------|
| Subparagraph 2.g: | For Applicant     |
| Subparagraph 2.h: | Against Applicant |
| Subparagraph 2.i: | Against Applicant |
| Subparagraph 2.j: | Against Applicant |

|                           |                   |
|---------------------------|-------------------|
| Paragraph 3, Guideline E: | AGAINST APPLICANT |
|---------------------------|-------------------|

|                   |                   |
|-------------------|-------------------|
| Subparagraph 3.a: | Against Applicant |
| Subparagraph 3.b: | Against Applicant |

### **Conclusion**

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

---

MARY E. HENRY  
Administrative Judge