



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



In the matter of:	)	
	)	
	)	ISCR Case No. 13-00320
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

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

04/10/2014

**Decision**

CURRY, Marc E., Administrative Judge:

In January 2012, Applicant’s eligibility for a security clearance was revoked because of a history of drug abuse, alcohol abuse, and personal misconduct, including the falsification of several security clearance applications. Since January 2012, Applicant has used cocaine, abused her company credit card, and falsified material, relevant information during the current security clearance process. Applicant’s reapplication for a security clearance is denied.

**Statement of the Case**

On April 8, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines G, alcohol consumption, H, drug involvement, and E, personal conduct. 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 adjudicative guidelines (AG). On January 10, 2012, the judge denied Applicant's eligibility for a security clearance.

On April 17, 2013, Applicant reapplied for a security clearance, completing an Electronic Questionnaire for Investigations Processing. On October 25, 2013, the Department of Defense Consolidated Adjudications Facility (DOD CAF) issued an SOR detailing security concerns under the guidelines initially raised in the 2011 SOR. The new SOR also raised an allegation under Guideline I, psychological conditions.

Applicant answered the SOR on November 4, 2013, admitting all of the allegations except subparagraphs 4.j and 4.k.<sup>1</sup> She opted not to have a hearing, and instead, requested a decision on the record. On January 14, 2014, Department Counsel prepared a File of Relevant Material (FORM). Applicant received the FORM on January 28, 2014, and did not submit a response. I was assigned the case on March 10, 2014.

### **Findings of Fact**

Applicant is a 35-year-old single woman with one child, age eight. Two prior marriages ended in divorce. After graduating from high school in 1996, she joined the U.S. Navy, where she served through 2000. She was honorably discharged. (Item 5 at 20)

After leaving the military, Applicant enrolled in college. She received a bachelor's degree in information technology in 2003. (Item 6 at 3) She then enrolled in graduate school and earned a master's degree in information systems in 2005. (Item 6 at 3) Since 2002, Applicant has worked for a federal contractor as a support engineer and an instructor. (Item 5 at 12)

Applicant has a history of drug and alcohol abuse. She used marijuana intermittently between 1995 and 2008. Some of her marijuana use occurred while she was serving on active duty, holding a Top Secret clearance. (Item 15 at 15; Item 16 at 36; Item 17 at 18; Item 18 at 2) Applicant disclosed her marijuana use in 2003, as part of an earlier investigation. During an interview that year, she told an investigator that she would never use illegal drugs again. (Item 11 at 13)

Applicant began drinking alcohol in 1992, at age 14. Her use gradually increased. Between the ages of 19 and 21, she was drinking alcohol five times per week. From ages 21 to 24, her alcohol use decreased. She entirely stopped drinking alcohol during her pregnancy and the birth of her child in 2005. (Item 11 at 5)

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<sup>1</sup>Applicant correctly noted a clerical error with respect to subparagraphs 4.j and 4.k. Specifically, subparagraphs 4.j and 4.k cross-reference subparagraphs 2.j and 2.k, respectively, whereas, the allegations in Paragraph 2 end at subparagraph 2.i. In the FORM, Department Counsel amended 4.j and 4.k. As amended, subparagraph 4.j reads, as follows: *That information as set forth in subparagraph 2.h., above*, and subparagraph 4.k, reads, as follows: *That information as set forth in subparagraph 2.i., above*. Applicant did not answer these amended allegations. Because Applicant admitted both subparagraphs 2.h and 2.i, I have construed her non-response to the amended subparagraphs 4.j and 4.k as admissions.

In 2006, Applicant resumed drinking alcohol, consuming it daily for the next two years. (Item 11 at 5) In January 2008, Applicant was arrested and charged with speeding, attempting to drive a vehicle under the influence, attempting to drive a vehicle under the influence, *per se*, and attempting to drive a vehicle while impaired by alcohol. (Item 19 at 3, 4) She received probation before judgment and was placed on 18 months of supervised probation. (Item 19 at 4) The court ordered her to abstain from alcohol and illegal drugs while on probation. (Item 19 at 4)

Applicant, upon her attorney's suggestion, entered alcohol counseling in March 2008. (Item 19 at 6) She was diagnosed as alcohol dependent by a licensed clinical psychologist. (Item 21 at 1)

Applicant continued to drink alcohol while in counseling, in contravention of her doctor's advice and the court order. Sometimes, she drank alcohol before attending therapy sessions. (Item 21 at 1) She was unsuccessfully discharged in July 2008. (Item 11 at 6)

Shortly after Applicant's discharge, she began using cocaine. (Item 19 at 6-7) During a three-week period in July 2008, she used cocaine several times and ingested hallucinogenic mushrooms. (Item 19 at 7)

Later in July 2008, Applicant failed a urinalysis. Consequently, the court charged her with a probation violation. (Item 19 at 7)

Applicant entered another treatment program in August 2008, and she received treatment until April 2009. While undergoing treatment, a licensed clinical social worker diagnosed her with alcohol dependence and cocaine abuse. (Item 11 at 6)

At or about the time Applicant entered drug treatment, she informed her company's facility security officer that she had violated the terms of her probation. (Item 20 at 7) This prompted a new investigation. Subsequently, Applicant's security clearance was suspended and an SOR was issued. In addition to allegations regarding alcohol consumption and drug involvement, the SOR alleged that Applicant falsified questions on several security clearance applications completed between 1997 and 2002, regarding her history of mental health treatment, and her history of illegal drug use. Per a decision by DOHA Administrative Judge Joan Anthony, Applicant's security clearance was revoked. (Item 11) In doing so, the judge resolved all of the SOR allegations against Applicant.

Before the decision, Applicant had been drug-and-alcohol-free since September 2008. (Item 6 at 8-9) Approximately six months after the decision, in July 2012, Applicant relapsed, abusing both alcohol and cocaine over a five-day period. (Item 6 at 12; Item 7 at 2, 5; Item 8 at 2-4, 6)

Before the relapse, Applicant had been participating in Alcoholics Anonymous (AA). She attended once a week. (Item 7 at 4) Applicant relapsed because she had gradually drifted away from her AA support network. (Item 8 at 6) After the relapse, she

re-dedicated herself to sobriety and resumed AA participation. (Item 8 at 6) Now, she works closely with her sponsor and she sponsors other women. She attends AA one to three times per week. (Item 7 at 3) She has not used any alcohol or illegal drugs for nearly two years. (Item 8 at 6)

Applicant has a history of mental illness. Her mental health issues stemmed from being molested as a child. (Item 11 at 5) She has been receiving counseling since she was 17. (Item 20 at 13) She first received counseling for several months in 1996. (Item 11 at 5) In 1998, while in the military, she received counseling. Five years later, in 2003, she resumed counseling, and has been receiving it since then. (Item 6 at 12)

The mental-health professionals at the institution where Applicant was treated from 2003 to 2008, diagnosed her with depression, borderline personality disorder, post-traumatic stress disorder, anxiety, and substance abuse. (Item 11 at 5) Between 2006 and 2008, Applicant also saw a psychiatrist, who diagnosed her with bipolar disorder. (Item 6 at 5; Item 7 at 4))

Since 2009, Applicant has been receiving therapy from another psychiatrist. (Item 19 at 8; Item 10 at 1) Applicant treats her mental health problems with four medications. She sees her psychiatrist, who prescribes prescription refills, four times per year. (Item 6 at 13) In October 2013, this psychiatrist reiterated that Applicant suffered from bipolar disorder. Applicant is most vulnerable to relapses when she is depressed. (Item 11 at 6) Also, the psychiatrist characterized Applicant's prognosis as "guarded (in light of previous substance abuse)." (Item 10 at 1)

Since 1997, Applicant has completed four security clearance applications as part of the periodic reinvestigation process. On each application, she falsified material and relevant information. On her most recent application, completed in April 2013, she disclosed her drug use history through September 2008, but failed to disclose her relapse in 2012. (Item 4 at 69) She also failed to disclose this information during a May 2013 interview, telling the investigator that she had been sober since September 2008. (Item 4 at 2) Applicant omitted this information "out of shame and guilt." (Item 4 at 2)

In January 2013, Applicant violated company policy by charging \$3,000 on her corporate credit card to pay for personal expenses such as movies, gifts, and bills. (Item 6 at 3, 9-10) She abused her corporate credit card because she was struggling financially and did not have the money to purchase these items. (Item 4 at 2) Applicant's supervisor issued her a warning letter. Applicant later paid the credit card in full. Applicant was disciplined earlier, in 2009, for the same infraction. (Item 6 at 9-10) She charged approximately \$1,000 of expenses to the company card. She satisfied the credit card account. (Item 6 at 10)

## **Policies**

The adjudicative guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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.”

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 to obtain a security clearance.

## **Analysis**

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

Under this guideline, “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 ¶ 21) Applicant has a history of problem drinking. She was arrested in January 2008 and charged with several alcohol-related charges. After being placed on probation before judgment, Applicant violated the terms of the court order by continuing to drink alcohol, sometimes attending counseling while under the influence of alcohol. Over the years, both licensed clinical social workers and psychiatrists have diagnosed her with alcohol dependence. Applicant was sober for nearly four years, but relapsed in July 2012. The following disqualifying conditions under AG ¶ 22 are applicable:

- (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 . . . ;
- (c) habitual or binge consumption of alcohol to the point of impaired judgment;
- (d) diagnosis by a duly qualified medical profession . . . 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;

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program; and

(g) failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence.

Applicant has not drunk alcohol in two years. However, in light of her previous relapse and her extensive history of alcohol abuse, the mitigating condition set forth in AG ¶ 23(a), “so much time has passed, or the behavior was so infrequent . . . that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment,” does not apply.

Applicant has rededicated herself to sobriety by actively availing herself of the support network provided by AA, and attending group counseling up to three days per week. She has not drunk alcohol in nearly two years. AG ¶ 23(b), “the individual acknowledges his or her alcoholism . . . provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence . . .” applies.

Applicant’s prognosis is guarded. Also, the last clinical treatment she received ended in her unsuccessful discharge. Consequently AG ¶ 23(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 . . . abstinence in accordance with treatment recommendations . . . 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,” does not apply.

### **Guideline H, Drug Involvement**

Under this guideline, “use of an illegal drug, or misuse of a prescription drug can raise questions about an individual’s reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person’s ability or willingness to comply with laws, rules, and regulations.” (AG ¶ 24) Applicant began using marijuana in 1995, continued using it through her stint in the military, and began using cocaine and hallucinogenic mushrooms in 2008 while on probation, prompting the failure of a drug test. A licensed social worker diagnosed her with cocaine abuse. The following disqualifying conditions are applicable under AG ¶ 25:

(a) any drug abuse;

(b) testing positive for illegal drug use;

(e) evaluation of drug abuse . . . by a licensed clinical social worker who is a staff member of a recognized drug treatment program; and

(g) any illegal drug use after being granted a security clearance.

Applicant has not abused illegal drugs in nearly two years. However, her most recent relapse occurred six months after her clearance was revoked for, among other things, drug involvement. Under these circumstances, none of the mitigating conditions apply.

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

The security concern under this guideline is as follows:

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 ¶ 15)

Over a span of 15 years, Applicant has falsified multiple questions on several security clearance applications. She falsified information on her most recent security clearance application approximately one year after her clearance was revoked for, among other things, falsifying information on security clearance applications. The following disqualifying conditions under AG ¶ 16(a) apply without mitigation:

(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; and,

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative.

Over the past five years, Applicant's employer has disciplined her twice for abusing the company credit card, using it to charge thousands of dollars of personal expenses. The most recent episode occurred in 2013 after her clearance was revoked. AG ¶ 16(d), "credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information," applies.

Applicant expressed contrition for this behavior. However, given its recent and repetitive nature, it is too soon to conclude that she mitigated the security concern.

### **Guideline I, Psychological Conditions**

Under this guideline, “certain emotional, mental, and personality conditions impair judgment, reliability, or trustworthiness.” (AG ¶ 27) The mental-health professionals at the institution where Applicant was treated from 2003 to 2008 diagnosed her with depression, borderline personality disorder, post-traumatic stress disorder, anxiety, and substance abuse. (Item 11 at 5) Between 2006 and 2008, Applicant also saw a psychiatrist, who diagnosed her with bipolar disorder. (Item 6 at 5; Item 7 at 4))

There is no record evidence that Applicant’s mental health condition has prevented her from performing her job responsibilities. Also, Applicant has managed to earn both an undergraduate degree and a master’s degree while balancing the demands of her job. She is currently receiving treatment from her psychiatrist and appears to be responding well to the treatment.

Applicant acknowledged that her mental condition influenced her decision to drink and use illegal drugs in the past. However, this behavior is covered under other guidelines, as discussed above. Consequently, I conclude that although Applicant has a psychological disorder, the psychological conditions guideline, as set forth in the Directive, is inapplicable.

### **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.

Many of Applicant’s mental health and substance abuse problems may be attributable to a traumatic childhood. She deserves credit for managing to obtain two advanced degrees under these circumstances. However, there is no acceptable explanation for repeatedly falsifying security clearance applications or lying to security clearance investigators. Applicant’s proclivity to falsify security clearance applications alone is disqualifying. When considered together with her substance abuse problems, it



undermines the probative value of her promises not to abuse drugs and alcohol in the future. Upon considering this case in the context of the whole-person concept, I conclude Applicant has failed to mitigate the security concerns.

### **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.f:	Against Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 2.a-2.i:	Against Applicant
Paragraph 3, Guideline I:	FOR APPLICANT
Subparagraph 3.a:	For Applicant
Paragraph 4, Guideline E:	AGAINST APPLICANT
Subparagraphs 4.a-4.m:	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.

MARC E. CURRY  
Administrative Judge