



DEPARTMENT OF DEFENSE  
DEFENSE OFFICE OF HEARINGS AND APPEALS



In the matter of: )  
)  
)  
[NAME REDACTED] ) ISCR Case No. 14-02843  
)  
)  
Applicant for Security Clearance )

**Appearances**

For Government: Nicole A. Smith, Esq., Department Counsel  
For Applicant: *Pro se*

06/03/2016

**Decision**

MALONE, Matthew E., Administrative Judge:

Applicant’s current period of sobriety and psychiatric stability are not sufficient to overcome the security concerns raised by her long-term abuse of alcohol and prescription medications, and by her long history of co-occurring psychiatric problems that have been prolonged by repeated noncompliance with treatment and abuse of prescribed medications. Her request for access to classified information is denied.

**Statement of the Case**

On November 8, 2012, Applicant submitted an Electronic Questionnaire for Investigations Processing (EQIP) to renew her eligibility for a security clearance required for her job with a defense contractor. After reviewing the completed background investigation, which included her responses to interrogatories<sup>1</sup> from Department of Defense (DOD) adjudicators, it could not be determined that it is clearly

<sup>1</sup> Authorized by Section E3.1.2.2 of DOD Directive 5220.6 (Directive)

consistent with the national interest for Applicant to continue to be eligible for access to classified information.<sup>2</sup>

On May 20, 2015, DOD issued a Statement of Reasons (SOR) alleging facts that raise security concerns addressed under the adjudicative guidelines for alcohol consumption (Guideline G), illegal drugs (Guideline H), and psychological conditions (Guideline I).<sup>3</sup> Applicant timely responded to the SOR and requested a decision without a hearing.

On October 28, 2015, Department Counsel for the Defense Office of Hearings and Appeals (DOHA) issued a File of Relevant Material (FORM)<sup>4</sup> in support of the SOR. Applicant received the FORM on November 12, 2015. On December 3, 2015, Applicant submitted additional information (Response to FORM) consisting of a letter from Applicant and a letter from her treating physician. Her submission is admitted without objection. The record closed on December 12, 2015, and the case was assigned to me on January 5, 2015.

### **Findings of Fact**

Under Guideline G, the Government alleged that from her early 20s, Applicant consumed alcohol, at times to excess and to the point of intoxication, including while she was at work, until at least 2014, despite multiple failed attempts to stop drinking and being diagnosed as alcohol dependent (SOR 1.a). It was also alleged that in June 2014, Applicant drank to excess while engaged in therapy because she was feeling depressed (SOR 1.b).

Under Guideline H, the Government alleged that in December 2013, Applicant required treatment for dependence on amphetamines (SOR 2.a); and that she has a history of abusing Adderall in a manner inconsistent with the advice of her treating medical providers, “up to and including while in ongoing therapy in June 2014.” (SOR 2.b)

Under Guideline I, it was alleged that Applicant’s mood and personality disorders between 2001 and 2014 were diagnosed and treated as major depressive disorder, generalized anxiety disorder, adjustment disorder, and bipolar disorder (SOR 3.a); and that Applicant has a history of not adhering to the prescribed regimen of medications at times (SOR 3.b). (FORM, Item 1)

In response to the SOR, Applicant admitted all of the allegations. (FORM, Item 2) In addition to the facts established by Applicant’s admissions, I make the following findings of fact.

---

<sup>2</sup> Required by Executive Order 10865, as amended, and by the Directive.

<sup>3</sup> See Directive, Enclosure 2. See also 32 C.F.R. § 154, Appendix H (2006).

<sup>4</sup> See Directive, Enclosure 3, Section E3.1.7. The FORM included 11 exhibits (Items 1 - 11) proffered in support of the Government’s case.

Applicant is a 51-year-old employee of a defense contractor, for whom she has worked since February 2001. She has held security clearances with DOD and other federal agencies since 1983. Applicant has been married since April 1988 and has two adult children in their 20s. Applicant's husband has been disabled since suffering a brain aneurysm in 1999. As a result, Applicant has been the sole source of income for her family for the past 17 years. (FORM, Items 3 and 11; Response to FORM)

In her 2012 EQIP, Applicant disclosed that since at least 2005, she had received treatment from a mental health professional for both alcohol and psychological problems. She stated she was an active member of Alcoholics Anonymous (AA) and was "in a grateful recovery." She also disclosed that since 2001, she has been treated for severe depression, bipolar disorder, and anxiety disorder. Information produced by Department Counsel in the FORM shows, in great detail, that Applicant has abused alcohol since sometime in the mid-1980s; that she is alcohol dependent; and that she suffers from co-occurring and significant mental health problems. (FORM, Items 3 - 11)

In the course of treatment for her psychological problems, Applicant has abused her medications, chief among them Adderall, prescribed in conjunction with other medications for her anxiety. Applicant abused Adderall, as well as several other of her medications over the past ten years, and she became addicted to the amphetamine contained in Adderall. Applicant has a history of either abusing her prescriptions by consuming them in excess, or she has unilaterally stopped taking her prescriptions without consulting her treating physicians or psychiatrists. (FORM, Items 6 - 11)

Since 2002, Applicant has been admitted for in-patient psychiatric care and alcohol abuse at least seven times. She has been in AA off and on since 2006. Both her psychological and substance abuse treatments have been marked by multiple relapses. After submitting her EQIP in 2012, Applicant was found to have been drinking at work, to be addicted to Adderall, and to still be inconsistent in her compliance with the medications and course of treatment prescribed for her. She has, at times, been suicidal with paranoid hallucinations, and she has been repeatedly treated for significant and pervasive depression and anxiety. In January 2014, she was readmitted to a psychiatric center after ingesting 30 days worth of medications while drinking. Inpatient and outpatient treatment between February and May 2014 yielded some improvement and a "good" prognosis for recovery. However, within a month, Applicant was drinking one half-gallon of vodka daily, and she had resumed her abuse of Adderall. She was readmitted for treatment in June 2014 after drinking vodka while sitting in the parking lot at her psychiatrist's office before an appointment. She was given only a "fair" prognosis at discharge because she had "co-occurring mental disorder that may complicate early recovery." This observation came to fruition during inpatient treatment between June 20 and July 11, 2014, when she was found to be abusing Adderall while a patient at that facility. The most recent discharge notes did not include a prognosis for recovery. (FORM, Item 11)

In response to the SOR, Applicant provided letters from her psychiatrist, her pastor, and a fellow AA member. All of them observe that Applicant is currently stable and adhering to treatment. Applicant herself has made clear that she accepts responsibility for her conduct, but she also provided a great deal of information about

her difficult personal history and the stressors of her family life that she believes have contributed to her anxiety and depression, as well as to her abuse of alcohol and prescription medications. In addition to her husband's disability, her son was in trouble with the law a few times while he was a teenager, and her daughter had significant medical problems for which Applicant did not always have sufficient insurance coverage. Applicant's mother and brother died in 2009 and 2012, respectively. Applicant and her husband filed Chapter 7 bankruptcy in 1999 because of their daughter's medical problems, and they recently lost their house to foreclosure. In response to the FORM, Applicant provided an update from her psychiatrist who opined that, as of early 2015, Applicant was stable and had an excellent prognosis for recovery, provided she continues her work with AA and complies with her other prescribed treatments. (FORM, Items 2 - 4; Response to FORM)

### **Policies**

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information,<sup>5</sup> and consideration of the pertinent criteria and adjudication policy in the adjudicative guidelines. Decisions must also reflect consideration of the factors listed in ¶ 2(a) of the new guidelines. Commonly referred to as the "whole-person" concept, those factors are:

- (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.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. A security clearance decision is intended only to resolve whether it is clearly consistent with the national interest<sup>6</sup> for an applicant to either receive or continue to have access to classified information. Department Counsel must produce sufficient reliable information on which DOD based its preliminary decision to deny or revoke a security clearance for an applicant. Additionally, Department Counsel must prove

---

<sup>5</sup> Directive. 6.3.

<sup>6</sup> See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

controverted facts alleged in the SOR.<sup>7</sup> If the Government meets its burden, it then falls to the applicant to refute, extenuate, or mitigate the case for disqualification.<sup>8</sup>

Because no one is entitled to a security clearance, applicants bear a heavy burden of persuasion to establish that it is clearly consistent with the national interest for them to have access to protected information.<sup>9</sup> A person who has access to such information enters into a fiduciary relationship with the Government based on trust and confidence. Thus, there is a compelling need to ensure each applicant possesses the requisite judgment, reliability, and trustworthiness of one who will protect the nation's interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an applicant's suitability for access to classified information in favor of the Government.<sup>10</sup>

## Analysis

### Alcohol Consumption

Available information shows that Applicant has a long history of abusing alcohol. She has been diagnosed as alcohol dependent and has relapsed repeatedly despite multiple inpatient and outpatient treatment efforts and her participation in AA. She has consumed alcohol at work and while in treatment. This information raises security concerns addressed at AG ¶ 21:

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.

More specifically, this record requires application of the following pertinent AG ¶ 22 disqualifying conditions:

(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;

(b) alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

---

<sup>7</sup> Directive, E3.1.14.

<sup>8</sup> Directive, E3.1.15.

<sup>9</sup> See *Egan*, 484 U.S. at 528, 531.

<sup>10</sup> See *Egan*; Adjudicative Guidelines, ¶ 2(b).

(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;

(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; and

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

By contrast, I have considered the mitigating conditions listed at 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 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.

None of these factors apply. Applicant has a long history of significant alcohol abuse and addiction. She has continued to relapse despite extended and significant treatment, both inpatient and outpatient. Prognoses have varied over the years and often have been invalidated by Applicant's relapses. Even though Applicant's latest prognosis is "excellent," that determination is conditioned on continued adherence to the strictures of AA and to her prescribed medication and treatment regimens. Doing so involves efforts Applicant repeatedly demonstrated she has been unable to sustain. Balanced against all of the foregoing, her current progress, while encouraging, must be

weighed with great caution. On balance, the record shows that serious security concerns remain about Applicant's use of alcohol.

## **Drug Involvement**

Applicant abused and misused prescription drugs, most notably Adderall prescribed as part of her treatment for anxiety. She became addicted to the amphetamines in Adderall, and has abused other prescription medications at various points in the course of her psychiatric treatment since at least 2006. Most of her conduct in this regard has occurred while she has held security clearances. This information reasonably raises a security concern that is stated at AG ¶ 24 as follows:

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.

(a) Drugs are defined as mood and behavior altering substances, and include:

(1) Drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens), and (2) inhalants and other similar substances;

(b) drug abuse is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.

More specifically, available information requires application of the disqualifying condition under AG ¶ 25

(a) Any drug abuse (see above definition);

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

(f) failure to successfully complete a drug treatment program prescribed by a duly qualified medical professional;

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

(h) expressed intent to continue illegal drug use, or failure to clearly and convincingly commit to discontinue drug use.

I have also considered the following pertinent mitigating conditions listed under AG ¶ 26:

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

(b) a demonstrated intent not to abuse any drugs in the future, such as: . . . (3) an appropriate period of abstinence;

(c) abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and

(d) satisfactory completion of a prescribed drug treatment program, including but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Applicant has misused prescription medications since at least 2006. Available information reflects definitive diagnoses of addiction to Adderall and the amphetamines it contains. Repeated attempts at treatment and rehabilitation failed to establish that she is engaged in meaningful recovery from this condition. During Applicant's most recent inpatient treatment in July 2014, she continued to abuse Adderall and there is no prognosis regarding this aspect of Applicant's substance abuse struggles. Even if she had established that she has not used Adderall over the past year, Applicant's long history of abusing many other medications prescribed for her militates against a finding that any period of abstinence in this regard is sufficient. Applicant did not mitigate the security concerns raised by her abuse of, and addiction to, prescription medications.

### **Psychological Conditions**

Since at least 2002, Applicant has suffered from major depression and general anxiety disorder. At times she has been suicidal and has exhibited other behaviors and impairments that raise security concerns about her mental health. The security concern about these matters is expressed at AG ¶ 27, as follows:

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. No negative inference concerning the standards in this Guideline may be raised solely on the basis of seeking mental health counseling.

This record requires application of the following more specific disqualifying conditions under AG ¶ 28:



(a) behavior that casts doubt on an individual's judgment, reliability, or trustworthiness that is not covered under any other guideline, including but not limited to emotionally unstable, irresponsible, dysfunctional, violent, paranoid, or bizarre behavior; and

(c) the individual has failed to follow treatment advice related to a diagnosed emotional, mental, or personality condition, e.g. failure to take prescribed medication.

Applicant's mental health conditions have been a matter of well-documented treatment for the past 15 years. They are interrelated with her significant alcohol abuse and dependence. She has alternately abused her medications and ignored her doctors' advice and directions for treatment. At times she has been suicidal and has had paranoid and hallucinatory episodes due to her substance abuse.

I have also considered the following pertinent AG ¶ 29 mitigating conditions:

(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;

(d) the past emotional instability was a temporary condition (e.g., one caused by a death, illness, or marital breakup), 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.

Available information does not support any of these mitigating conditions. Applicant's psychological problems have existed at least for the past 10 years. Her recent favorable prognosis for recovery is predicated on her adherence to treatment and compliance with medication regimens. Applicant has not established a record of compliance that sufficiently counterbalances her poor track record of relapses and medication abuse. Although it appears difficulties in her personal life have, at times, been overwhelming, there has been no indication her condition was ever temporary. Applicant has not shown that there is no indication of a current problem, only that she has been stable and sober for a relatively brief period. Security concerns remain about Applicant's psychological conditions.

In addition to my evaluation of the facts and application of the appropriate adjudicative factors under Guidelines G, H and I, I have reviewed the record before me in the context of the whole-person factors listed in AG ¶ 2(a). Applicant's personal life has been marked with significant struggles. Undoubtedly, they have served to trigger

and exacerbate relapses in her conditions. But the overwhelming weight of the available evidence shows that her abuse of alcohol and her anxiety and depression disorders predate most of the life events she cited in response to the Government's concerns. That same information also makes clear that Applicant is still at risk of relapsing in both her alcohol recovery and her mental health treatment. On balance, I have serious doubts about Applicant's addiction recovery efforts and her mental health. Because protection of the national interest is the principal focus of these adjudications, those doubts must be resolved against the Applicant.

### **Formal Findings**

Formal findings 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 H:	AGAINST APPLICANT
Subparagraphs 2.a - 2.b:	Against Applicant
Paragraph 3, Guideline I:	AGAINST APPLICANT
Subparagraphs 3.a - 3.b:	Against Applicant

### **Conclusion**

In light of all available information, it is not clearly consistent with the national interest for Applicant to have access to classified information. Applicant's request for a security clearance is denied.

---

MATTHEW E. MALONE  
Administrative Judge