



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



In the matter of:

Applicant for Security Clearance

)
)
)
)
)

ISCR Case No. 14-04395

Appearances

For Government: Alison O'Connell, Esq., Department Counsel
For Applicant: William S. Aramony, Esq.

05/26/2015

Decision

Harvey, Mark, Administrative Judge:

Applicant was arrested, charged, and convicted of driving under the influence of alcohol (DUI) for offenses in 1990 and 2013. After the 2013 DUI, he reduced his alcohol consumption, attended Alcoholics Anonymous (AA) meetings, and improved his work performance. He consumes alcohol responsibly. He receives support from family and friends. Alcohol consumption, criminal conduct, and personal conduct concerns are mitigated. Eligibility for access to classified information is granted.

Statement of the Case

On March 12, 2014, Applicant submitted his Electronic Questionnaires for Investigations Processing (e-QIP) version of a security clearance application (SF 86). (GE 1) On December 22, 2014, the Department of Defense (DOD) Office of Hearings and Appeals (DOHA) issued a statement of reasons (SOR) to Applicant, pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended; and the adjudicative guidelines (AG), which became effective on September 1, 2006.

The SOR alleged security concerns under Guidelines J (criminal conduct) and Guideline E (personal conduct). (Hearing Exhibit (HE) 2) On February 5, 2015, the SOR was amended adding security concerns under Guideline G (alcohol consumption). (HE 3) The SOR informed Applicant that DOD adjudicators could not make the affirmative finding it is clearly consistent with national security to grant or continue Applicant's security clearance, and it recommended that his case be submitted to an administrative judge for a determination whether his clearance should be granted, continued, denied, or revoked. (HE 2)

On January 16, 2015, and February 23, 2015, Applicant responded to the SOR allegations. (HE 4, 5) Department Counsel requested a hearing. On March 30, 2015, Department Counsel indicated she was ready to proceed on Applicant's case. On April 3, 2015, Applicant's case was assigned to another administrative judge. On April 8, 2015, DOHA issued a hearing notice, setting the hearing for April 29, 2015. (HE 1) On April 29, 2015, the case was transferred to me for administrative reasons.

Applicant's hearing was held as scheduled. Department Counsel offered four exhibits, and Applicant offered eight exhibits. (Tr. 16, 37-39; GE 1-4; AE A-H) There were no objections, and I admitted GE 1-4 and AE A-H. (Tr. 16, 39) On May 7, 2015, I received the transcript.

Findings of Fact¹

Applicant admitted he was arrested and charged with DUI on October 12, 2013 (SOR ¶¶ 1.a, 2.a, and 3.a). He admitted he was convicted of DUI in 1990. (SOR ¶ 3.c) He denied the allegation in SOR ¶ 3.b that he was impaired by alcohol at work. He provided some extenuating and mitigating information. His admissions are accepted as findings of fact. After a complete and thorough review of the evidence of record, I make the following additional findings of fact.

Applicant is a 56-year-old employee of a defense contractor, who maintains security-related documentation for his employer. (Tr. 71-73) He has worked for the defense contractor for 11 years. (Tr. 110) Applicant served on active duty in the Navy from 1981 to 2001 and honorably retired as a petty officer first class (E-6). (Tr. 53, 109)

In about 1987, Applicant was referred for alcohol screening. (Tr. 81-82) In 1989, he vomited blood while aboard a ship, and he was ordered not to consume alcohol until he received a medical examination. (Tr. 81-82) When he returned to shore duty, he received a medical examination, and he was advised that his medical problem was unrelated to alcohol consumption. (Tr. 83) Applicant's daughter was born in 1986, and he was married in 1990. (Tr. 60, 109)

¹The facts in this decision do not specifically describe employment, names of witnesses or locations in order to protect Applicant and his family's privacy. The cited sources contain more specific information.

Arrests for DUI and Rehabilitation

In 1990, Applicant was arrested, charged, and convicted of DUI. (Tr. 59) After the 1990 DUI he attended a Navy Alcohol and Substance Abuse Program (ASAP) for one week. (Tr. 59-60, 84) This program focuses on education about the dangers of excessive alcohol consumption. After he married, he reduced his alcohol consumption. (Tr. 62-63) He did not receive any other DUIs or alcohol counseling from 1990 to 2013. (Tr. 85)

On October 12, 2013, Applicant went to visit his family in another state, attended a homecoming high school football game, consumed too much alcohol, and chose to drive. (Tr. 75-78, 85) The police stopped him for driving 65 miles per hour in a 45 mile per hour zone. (Tr. 110) His breathalyzer registered .16%. (file) He was arrested for DUI. He immediately informed his security officer of the DUI arrest. (Tr. 113) In late 2014, he pleaded guilty to and was convicted of DUI. (Tr. 88) He received a \$769 fine and was told he should attend an alcohol class. (Tr. 89, 112) His driver's license was suspended for seven months. (Tr. 113) His driver's license was reinstated in March 2015. (Tr. 113) His attorney filed an appeal, and his conviction and all adjudged punishments are currently a legal nullity. (Tr. 90-91; AE B)

After his 2013 DUI arrest, he reduced his alcohol consumption. (Tr. 73-74) From 2011 to 2013, he may drink a beer or two at a restaurant and then drive his vehicle. (Tr. 78, 96) Before 2015, he went fishing about five or six times a year. (Tr. 98) He drank four or five beers over a six-hour-period while he was fishing, and then he drove home. (Tr. 98-99) He did not believe his alcohol consumption while fishing caused his BAC to exceed the legal limit, and result in DUI(s).

Applicant has only gone fishing once so far in 2015. (Tr. 98-99) He currently drinks about three beers a week on weekends. (Tr. 79, 100) He began attending AA meetings a month ago in late March 2015, and he currently attends AA meetings three times a week. (Tr. 63, 103) He attended AA to assess whether he had an alcohol-consumption problem, and he concluded he did not. (Tr. 104) Applicant's family and friends support his continued responsible alcohol consumption.

On April 24, 2015, a licensed clinical social worker interviewed Applicant for about an hour, evaluated his alcohol consumption, and determined he "does not have alcohol issues that present any safety issues nor is he a danger regarding security."² She suggested Applicant continue to attend AA because "briefly receiving alcohol education would be of benefit to raise awareness." She did not diagnose him as abusing alcohol or being alcohol dependent. She did not advise him to abstain from alcohol consumption. (Tr. 108)

²The source for the facts in this paragraph is an April 14, 2015 evaluation by a licensed clinical social worker. (Tr. 101-103, 108; AE G)

Impaired at Work by Alcohol Consumption

The SOR alleges that in approximately July 2013 and January 2014, Applicant was impaired at work by previous alcohol consumption. (SOR ¶ 3.b) Applicant's security manager (S) was called as a Government witness. He is currently Applicant's supervisor. (Tr. 19-20) He received a telephone call from one of Applicant's colleagues around October 2013 and was advised Applicant may be intoxicated at work. (Tr. 20) Within an hour S met with Applicant and assessed that Applicant was not intoxicated. (Tr. 21) In November or December 2013, he received another report from another of Applicant's colleagues that Applicant was possibly intoxicated. (Tr. 22-24) S met with Applicant and made an assessment that he seemed tired or lethargic, but was not under the influence of alcohol. (Tr. 24) Applicant's speech "wasn't quite as sharp" as expected; he did not stumble; and his behavior was not odd or strange. (Tr. 33-34)

S asked for and received consent from Applicant to be tested for alcohol consumption. (Tr. 24) S was unable to locate a facility that would test Applicant for alcohol consumption. (Tr. 25-26) S did not ask Applicant if he had recently consumed alcohol. (Tr. 32) S did not detect the smell of alcohol (Tr. 32) S believed that Applicant's colleagues may have had some professional resentment of Applicant. (Tr. 27)

Applicant denied that he ever consumed alcohol at work or consumed alcohol before work. (Tr. 65, 67, 93) He served on several large ships including the New Jersey, while this battleship was shelling Lebanon with 16-inch guns after the Beirut Marine barracks bombing in Beirut in 1983. (Tr. 54) Sometimes Applicant is unable to sleep at night because of ringing in his ears. (Tr. 65) Applicant received a 10 percent disability rating from the Department of Veterans Affairs (VA) for damage to his hearing while on active duty. (Tr. 66, 113) Applicant takes medication for high blood pressure and cholesterol, and he may have been tired when he was accused of being impaired by alcohol. (Tr. 69, 93)

I observe that Applicant is from the deep South; his speech has a heavy regional accent; and his verbal statements were delivered in a mumbling manner.

Character Evidence

Applicant's supervisor said Applicant's work performance had dramatically improved in 2014 and 2015. (Tr. 30-31, 35-36) He received additional automation training and became much more effective at work. (Tr. 30-31) He supported approval of Applicant's continued access to classified information. (Tr. 35-36)

A colleague (A) who worked closely with Applicant for 11 years and three colleagues (B, C, and D), who have known Applicant personally and professionally for 5, 15, and 14 years, respectively, described him as trustworthy, focused, conscientious, and reliable. (Tr. 118-120, 122; AE C, D, H) A has never observed Applicant under the influence of alcohol at work. (Tr. 118-120) Their statements and Applicant's evaluation for 2014 support continuation of Applicant's security clearance. (Tr. 122; AE C, D, F, H)

A Department of Justice GS 15, who supervises a large office and is a Navy reserve captain, has known Applicant socially for about six years (Tr. 42-44, 47, 50) He has consumed alcohol with Applicant while on fishing trips, in restaurants, and in bars. (Tr. 44-48) He has never seen Applicant drink to excess or become intoxicated, and he believes Applicant drinks responsibly. (Tr. 44-47) He believes Applicant is a trustworthy, responsible person, and he supports Applicant's continued access to classified information. (Tr. 51-52)

Policies

The U.S. Supreme Court has recognized the substantial discretion of the Executive Branch in regulating access to information pertaining to national security emphasizing, "no one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicant's eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960), as amended.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information. Clearance decisions must be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." See Exec. Or. 10865 § 7. See also Executive Order 12968 (Aug. 2, 1995), § 3.1. Thus, nothing in this Decision should be construed to suggest that I have based this decision, in whole or in part, on any express or implied determination about applicant's allegiance, loyalty, or patriotism. It is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan*, 484 U.S. at 531.

“Substantial evidence” is “more than a scintilla but less than a preponderance.” See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant’s security suitability. See ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant “has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his [or her] security clearance.” ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). The burden of disproving a mitigating condition never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005). “[S]ecurity clearance determinations should err, if they must, on the side of denials.” *Egan*, 484 U.S. at 531; see AG ¶ 2(b).

Analysis

Alcohol Consumption

AG ¶ 21 articulates the Government’s concern about alcohol consumption, “[e]xcessive 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.”

Seven Alcohol Consumption disqualifying conditions could raise a security concern and may be disqualifying in this case. AG ¶¶ 22(a) - 22(g) provide:

- (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;
- (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;

(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.

AG ¶¶ 22(b) and 22(d) through 22(g) do not apply. Applicant did not have any alcohol-related incidents at work. The anonymous allegation that he was impaired by alcohol at work on two occasions was not substantiated. Applicant credibly denied being impaired by alcohol at work. He has never consumed alcohol before going to work or at work. He did not violate any court orders, and he did not have a relapse after a diagnosis of alcohol abuse or dependence. He has not been diagnosed with alcohol abuse or of being alcohol dependent.

AG ¶¶ 22(a) and 22(c) apply. Applicant engaged in binge-alcohol consumption to the extent of impaired judgment on some occasions, including when he was arrested for DUI.³ His excessive alcohol consumption resulted in arrests, convictions, and various penalties imposed by the courts. Assessment of the applicability of mitigating conditions is required.

Four Alcohol Consumption Mitigating Conditions under AG ¶¶ 23(a)-23(d) are potentially applicable:

(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

³Although the term "binge" drinking is not defined in the Directive, the generally accepted definition of binge drinking for males is the consumption of five or more drinks in about two hours. The definition of binge drinking was approved by the National Institute on Alcohol Abuse and Alcoholism (NIAAA) National Advisory Council in February 2004. See U.S. Dept. of Health and Human Services, NIAAA Newsletter 3 (Winter 2004 No. 3), <http://www.pubs.niaaa.nih.gov/publications/Newsletter/winter2004/NewsletterNumber3.pdf>.

(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.

AG ¶¶ 23(a) and 23(c) apply. In 1990, Applicant completed ASAP, a one-week alcohol-education program. This brief version of ASAP is not an alcohol-related inpatient or outpatient program, and it is not sufficiently rigorous or recent to provide a substantial rehabilitative effect. Applicant receives support from family and friends. He significantly reduced his alcohol consumption after 2013, and his DUIs occurred “under such unusual circumstances,” providing confidence he will not have additional DUIs. Applicant is currently attending AA meetings as an aid in the assessment of his alcohol consumption and reinforcement of his alcohol reduction to responsible levels. Even though he has a lengthy history of alcohol consumption, which resulted in two DUI arrests, enough time has elapsed with responsible alcohol consumption to establish his alcohol consumption is under control, and his alcohol consumption no longer casts doubt on Applicant’s “current reliability, trustworthiness, or good judgment.”

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 two conditions that could raise a security concern and may be disqualifying in this case, “(a) a single serious crime or multiple lesser offenses,” and “(c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted.”

AG ¶¶ 31(a) and 31(c) apply. Applicant was arrested, charged, and convicted of DUIs occurring in 1990 and 2013. The second offense resulted in a conviction, and it is on appeal. I find that he committed the 2013 DUI offense based on his BAC results of .16% and his guilty plea to that offense.

AG ¶ 32 provides four conditions that could potentially 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;

(b) the person was pressured or coerced into committing the act and those pressures are no longer present in the person's life;

(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.

Applicant has two misdemeanor-level DUIs separated by 23 years. After the second offense, he reduced his alcohol-consumption practices. He has been continuously employed for 11 years. In the last two years, he substantially improved his work performance. He expressed regret and remorse concerning his alcohol-related offenses. After 2013, he responsibly consumed alcohol, limiting his alcohol consumption to about three beers a week on weekends. His alcohol consumption while fishing must remain at a very low level to remain “responsible” and avoid the risk of another DUI.⁴ While it would be more prudent for Applicant to completely refrain from any alcohol consumption before driving, the law does not require that he do so. Criminal conduct concerns are mitigated.

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 describes one condition that could raise a security concern and may be disqualifying in this case:

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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.

⁴An individual's rate of metabolism of alcohol is dependent on several variables, including alcohol content, volume of alcohol consumed, “gender, weight, metabolism, time period over which the alcohol was consumed and the amount of food in the stomach prior to drinking” as well as liver health. See GLOBALRPh website, “The Clinition's Ultimate Reference, BAC Calculator, http://www.globalrph.com/blood_alcohol_calculator.htm.

All of the conduct alleged in the SOR is covered under Guidelines G and J; however, as previously indicated they are insufficient to warrant an adverse determination. Applicant's excessive alcohol consumption shows "questionable judgment, untrustworthiness, unreliability, . . . unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information." There is sufficient evidence of rule violations to establish AG ¶ 16(c), and consideration of mitigating conditions is required.

AG ¶ 17 provides three conditions that could mitigate security concerns in this case are as follows:

(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;

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur; and

(f) the information was unsubstantiated or from a source of questionable reliability.

AG ¶ 17(f) applies to the allegations in SOR ¶ 3.b that Applicant was impaired at work by alcohol consumption twice in 2013. These were anonymous allegations, and they are unsubstantiated. The only named witnesses, Applicant and his supervisor, concurred that he was not impaired by alcohol at work.

AG ¶¶ 17(c) and 17(d) apply. Applicant committed DUIs in 1990 and 2013. The DUI offenses were separated by 23 years and are infrequent. He acknowledged that he excessively consumed alcohol and showed poor judgment by driving under the influence of alcohol. He decreased his alcohol consumption after his 2013 DUI. He attended AA meetings to assess and sensitize himself to alcohol consumption issues. After 2013, his work performance improved; he has the support of his family and friends; these factors have enabled him "to alleviate the stressors, circumstances, or factors that caused untrustworthy, unreliable, or other inappropriate behavior," and future DUIs are "unlikely to recur." Personal conduct concerns are mitigated.

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.

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. My comments under Guidelines G, J, and E are incorporated into my whole-person analysis. Some of the factors in AG ¶ 2(a) were addressed under those guidelines, but some warrant additional comment.

Although some whole-person evidence supporting revocation of Applicant's eligibility for access to classified information, such evidence is not sufficient to revoke his security clearance. Applicant was arrested, charged, and convicted of DUI in 1990 and 2013. He continues to consume alcohol. Driving while impaired or intoxicated is a serious criminal offense in which he endangered himself and others. Excessive alcohol consumption and then driving a motor vehicle shows a lack of judgment, rehabilitation, and impulse control. "By its very nature, [criminal conduct] calls into question a person's ability or willingness to comply with laws, rules and regulations." (AG ¶ 30)

The evidence supporting reinstatement of Applicant's clearance is more substantial than the evidence supporting revocation. Applicant is a 56-year-old employee of a defense contractor, who maintains security-related documentation for the contractor. He has worked for the defense contractor for 11 years. Applicant served on active duty in the Navy from 1981 to 2001 and honorably retired as a petty officer first class. He did not consume alcohol at work. He has attended AA meetings to assess and sensitize himself to alcohol-consumption issues. He reduced his alcohol consumption and improved his work performance after his 2013 DUI. His family, friends, coworkers, and supervisors are very supportive of Applicant's rehabilitative efforts. They describe him as trustworthy, focused, conscientious, and reliable and support continuation of his security clearance. He intends to continue to responsibly consume alcohol. Criminal conduct, alcohol consumption, and personal conduct concerns are mitigated.

I have carefully applied the law, as set forth in *Department of Navy v. Egan*, 484 U.S. 518 (1988), Exec. Or. 10865, the Directive, and the AGs, to the facts and circumstances in the context of the whole person. I conclude continuation of Applicant's access to classified information is warranted at this time.

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:	FOR APPLICANT
Subparagraph 1.a:	For Applicant
Paragraph 2, Guideline E:	FOR APPLICANT
Subparagraph 2.a:	For Applicant
Paragraph 3, Guideline G:	FOR APPLICANT
Subparagraphs 3.a to 3.c:	For Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to continue Applicant's security clearance. Eligibility for access to classified information is granted.

MARK HARVEY
Administrative Judge