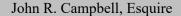
KEYWORD: Drugs
DIGEST: Applicant smoked marijuana on five occasions between June 1991 and May 2000. During that time she was employed by a defense contractor and held a secret security clearance. She has failed to mitigate her drug involvement. Clearance is denied.
CASENO: 02-10454.h1
DATE: 07/16/2004
DATE: July 16, 2004
In Re:
SSN:
Applicant for Security Clearance
ISCR Case No. 02-10454
DECISION OF ADMINISTRATIVE JUDGE
HENRY LAZZARO
<u>APPEARANCES</u>

FOR GOVERNMENT

Francisco Mendez, Esquire, Department Counsel

FOR APPLICANT



SYNOPSIS

Applicant smoked marijuana on five occasions between June 1991 and May 2000. During that time she was employed by a defense contractor and held a secret security clearance. She has failed to mitigate her drug involvement. Clearance is denied.

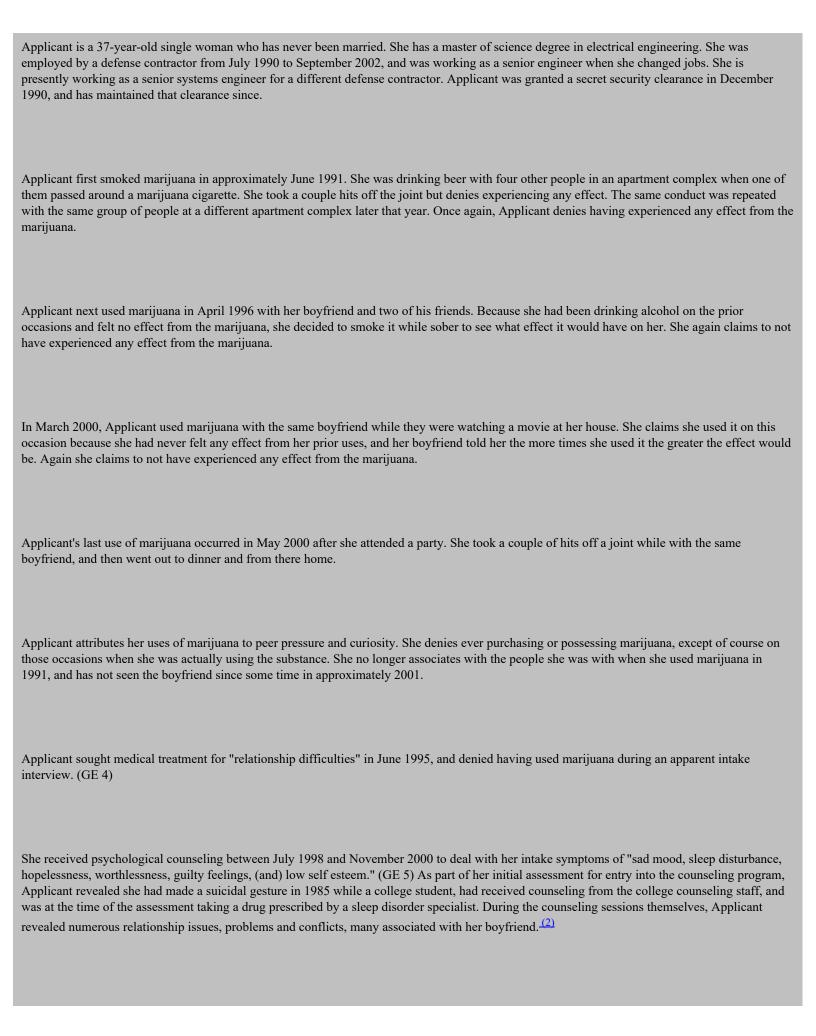
STATEMENT OF THE CASE

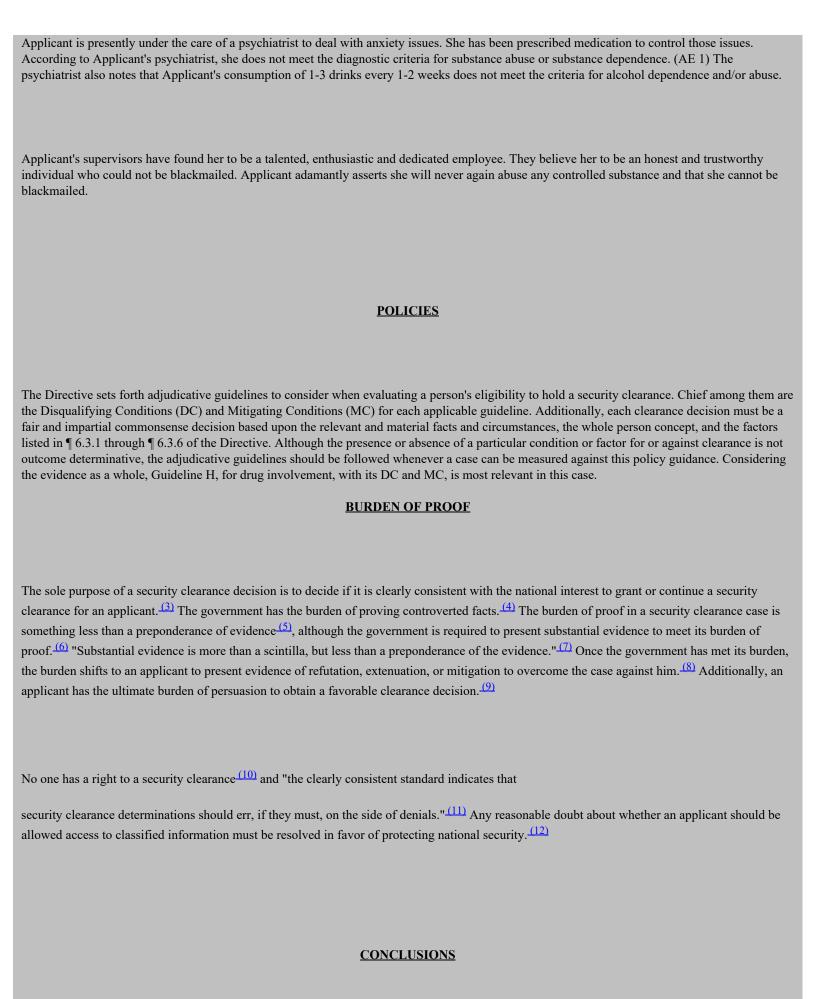
On July 29, 2003, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant stating they were unable to find it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. (1) The SOR, which is in essence the administrative complaint, alleges a security concern under Guideline H for drug involvement. Applicant submitted an answer to the SOR on October 16, 2003, requested a hearing, and admitted the sole SOR allegation

The case was assigned to me on April 26, 2004. A notice of hearing was issued on May 18, 2004, scheduling the hearing for June 7, 2004. The hearing was conducted as scheduled. The government submitted five documentary exhibits at the hearing that were marked as Government Exhibits (GE) 1-5, and admitted into the record without an objection. Applicant testified at the hearing and submitted three exhibits that were marked as Applicant's Exhibits (AE) 1-3, and admitted into the record without an objection. The transcript was received by the DOHA on June 18, 2004.

FINDINGS OF FACT

Applicant's admission to the allegation contained in the SOR is incorporated herein. In addition, after a thorough review of the pleadings, exhibits and testimony, I make the following findings of fact:





Under Guideline H, illegal drug involvement raises questions about an individual's willingness or ability to protect classified information. Involvement with or use of an illegal drug indicates unwillingness or inability to abide by the law. Cleared employees must respect regulations whether they agree with them or not. If they do not respect the rules on illegal substances, they may not respect the rules designed to protect classified information. Applicant used marijuana on five occasions between June 1991 and March 2000. When she used the marijuana, she worked for a defense contractor and possessed a security clearance. She attributes her marijuana use to peer pressure and curiosity, and reports that on the two occasions she used marijuana in 2000 she was with her boyfriend. During March 2000, Applicant both used marijuana with her boyfriend, and saw her counselor to discuss her relationship conflicts. She reported to the counselor that she was doing well and was continuing to monitor her contacts with males. (GE 5) Applicant agreed to terminate her counseling sessions in April 2000, and then used marijuana with her boyfriend in May 2000. Applicant next decided to "touch base" with her counselor in November 2000 and reported she was doing pretty well and had not dated in a year, despite having smoked marijuana with an individual she identifies as her boyfriend on two occasions in the preceding eight months. Despite having engaged in psychological counseling for more than two years to deal with personal relationships, Applicant continued to succumb to either her own curiosity or the peer pressure exerted by her boyfriend and experimented with marijuana while possessing a security clearance. She is now under the care of a psychiatrist who has prescribed medication to deal with her anxiety issues and who has posited that she is neither a substance abuser nor substance dependent. However, there is no evidence to suggest that the issues that led her to succumb to peer pressure before, and caused her to abuse marijuana and the trust that was placed in her as a security clearance holder, no longer exist. Under the circumstances present in this case, I cannot find sufficient attenuation from Applicant's past misconduct to warrant a finding that her conduct was not recent. Accordingly, Disqualifying Conditions (DC) 1: Any drug abuse; and 5: Recent drug involvement, especially following the granting of a security clearance, ..., will almost invariably result in an unfavorable determination apply in this case. I have considered all mitigating conditions under Guideline H and find none apply. Considering all relevant and material facts and circumstances present in this case, the whole person concept, the factors listed in ¶ 6.3.1 through ¶ 6.3.6 of the Directive, and the applicable disqualifying and mitigating conditions, I find Applicant has failed to mitigate this security concern. Guideline H is decided against Applicant. **FORMAL FINDINGS** SOR ¶ 1-Guideline H: Against the Applicant

