

DATE: September 4, 2002

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-13906

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Marc E. Curry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant continues to consume alcohol on an almost daily basis notwithstanding the fact he believes he is an alcoholic. Clearance is denied.

STATEMENT OF THE CASE

On February 6, 2002, the Defense Office of Hearings and Appeals (DOHA), pursuant to Executive Order 10865 and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992, issued a Statement of Reasons (SOR) to applicant which detailed reasons why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue a security clearance for applicant and recommended referral to an Administrative Judge to determine whether clearance should be denied or revoked.

Applicant responded to the SOR in writing on or about March 4, 2002, and elected to have his case determined on a written record in lieu of a hearing. Department Counsel submitted the Government's written case (FORM) on or about April 15, 2002. Applicant did not file a response to the FORM. The case was assigned to me on June 6, 2002.

FINDINGS OF FACT

Applicant is 37 years of age.

Applicant consumed alcohol with varying frequency, at times to excess and to the point of intoxication, from approximately 1985 to at least June 2000.

In May 1995, applicant was arrested for Driving Under the Influence (DUI). This arrest occurred after applicant took and failed a field sobriety test. (He refused to take a Breathalyzer Test.) He was found guilty of Reckless Driving, fined \$300.00, and his drivers license was suspended for 60 days for refusing to take the Breathalyzer Test. Although applicant had consumed "a few beers" prior to his arrest, he does not feel he was under the influence when he was

stopped.

In November 1999, applicant was arrested and charged with DUI after he was involved in an accident with another pickup truck. He was found guilty of the charge, fined \$420.00, ordered to participate in an alcohol awareness class, and his drivers license was revoked for 90 days. Applicant attended a weekend alcohol awareness program, where he attended an AA meeting and listened to speakers.

In June 2000, applicant was involved in a domestic dispute with his girlfriend. When the police arrived at their residence, they asked applicant to leave. He told them he was unable to do so because he had consumed 3-4 beers. The police took him to the police station where he waited until a friend picked him up. No charges were filed against applicant.

Although applicant believes he is an alcoholic, he continues to consume alcohol on an almost daily basis.

POLICIES

Enclosure 2 of the Directive sets forth Guidelines (divided into conditions that could raise security concerns and conditions that could mitigate security concerns) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following Guidelines are applicable:

ALCOHOL CONSUMPTION

Disqualifying Conditions:

1. Alcohol-related incidents away from work.
4. Habitual or binge consumption of alcohol to the point of impaired

judgment.

Mitigating Conditions:

None.

CONCLUSIONS

The evidence establishes that applicant has consumed alcohol with varying frequency, at times to excess and to the point of intoxication, from approximately 1985 to at least June 2000, and that this excessive consumption of alcohol has resulted in two arrests and convictions. The evidence further establishes that applicant has consumed alcohol on an almost daily basis since June 2000, notwithstanding the fact he believes he is an alcoholic. These facts reflect adversely on applicant's judgment and reliability, and strongly suggest that he cannot be relied upon to safeguard classified information.

Despite his history of alcohol-related incidents, and the fact he recognizes he is an alcoholic, applicant continues to consume alcohol on an almost daily basis. He has offered no credible evidence that could lead me to conclude his current level of consumption is no longer a security concern. For this reason, Guideline G is found against applicant.

FORMAL FINDINGS

PARAGRAPH 1: AGAINST THE APPLICANT

DECISION

In light of all the circumstances presented by the record in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for applicant.

Joseph Testan
Administrative Judge