

DATE: November 13, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 01-26209

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

Peregrine D. Russell-Hunter, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant continues to drink beer in quantity of up to four or five beers per sitting after being diagnosed as alcohol dependent and advised to abstain from alcohol. He violated his probation for a 1995 criminal assault by failing to attend court-ordered Alcoholics Anonymous (AA). While he was arrested three times for criminal assault and battery, most recently in November 2002, the incidents were aberrational and are not likely to be repeated. Applicant has \$6,034 in outstanding bad debt that he cannot pay at present, but the debt was incurred because of an unexpected loss of income. Financial considerations and criminal conduct concerns have been mitigated, but personal conduct and alcohol consumption concerns persist. Clearance is denied.

STATEMENT OF THE CASE

On January 8, 2003, the Defense Office of Hearings and Appeals (DOHA) 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 the Applicant. [\(1\)](#) DOHA recommended referral to an Administrative Judge to conduct proceedings and determine whether clearance should be granted, continued, denied, or revoked. The SOR was based on criminal conduct (Guideline J), excessive alcohol consumption (Guideline G), financial considerations (Guideline F), and personal conduct (Guideline E).

On February 3, 2003, Applicant filed an answer to the SOR and requested a hearing before a DOHA administrative judge. The case was assigned to me on June 16, 2003, and a formal notice was issued on June 30, 2003, scheduling the hearing for July 15, 2003. At the hearing held as scheduled, nine Government exhibits were entered into the record and testimony was taken from the Applicant, as reflected in a transcript received by DOHA July 24, 2003.

FINDINGS OF FACT

DOHA alleged in the SOR criminal conduct concerns because of assault and battery incidents in 1975, 1995, and 2002;

excessive alcohol consumption with continued drinking after a diagnosis of alcohol dependence; financial considerations due to aggregate bad debt of \$6,034; and personal conduct concerns generated by Applicant's violation of probation after the 1995 assault and battery and by his continued drinking of four to five beers daily as of November 2002. Applicant admitted the arrests and failure to comply initially with the terms of his probation for the 1995 assault, but he denied committing assault on his former girlfriend in 1995 or on his current girlfriend's brother in 2002. He admitted undergoing voluntary treatment for alcohol and cocaine dependence in May 1995, and to continuing to drink beer, although not on a daily basis. Applicant did not dispute the outstanding indebtedness alleged. After a thorough review of the evidence, and on due consideration of the same, I make the following findings of fact:

Applicant is a 46-year-old maintenance machinist who has worked for the same defense contractor since September 1983 with the exception of one year when he was terminated for failure to timely notify the company of his absence due to medical reasons. Reinstated to the job with seniority intact but without pay for that year, Applicant continued to work without a security clearance. He now requires a confidential clearance for his duties.

At age 17, Applicant was arrested for disorderly conduct after drinking alcohol at a big party. He scuffled with the police officer when being placed in his jail cell, and a charge of assault and battery was added. The charges were continued without a finding for six months. Circa October 1975, the case was dismissed with payment of court costs of \$100 for assault and \$50 for disorderly conduct.

Applicant married in February 1981 and the first of his three sons was born that August. By 1988, Applicant had three children (other sons born in 1984 and 1987) and was doing masonry work on the side. Two or three times a week, Applicant consumed beer in the evening while meeting with contractors to discuss masonry jobs. On occasion, he imbibed mixed drinks. Concerned he was drinking alcohol too frequently, Applicant voluntarily underwent alcohol treatment in 1988.

Applicant maintained abstinence from alcohol thereafter until 1992, when he began to drink beer after a patio job proved unsatisfactory and he had to remove seven yards of concrete. His spouse caught him drinking, which further strained a relationship marked by discord over her spending habits and issues related to the rearing of their three sons. Applicant sought alcohol treatment in 1992, but their relationship continued to deteriorate and they divorced in January 1994. Applicant arranged for \$320.00 per week to be garnished from his paycheck for payment of child support.

Circa 1994, Applicant began a cohabitant relationship on the rebound with a woman who used illegal drugs and alcohol. He imbibed alcohol on a daily basis with old friends after work and after his second job on the weekends. During this period, Applicant failed to make payments on at least one credit card, and \$1,962 was charged off in February 1994. In June 1994, in addition to his drinking, Applicant began snorting cocaine on a daily basis in the parking lots of bars or clubs. After several weeks of daily use, he reduced his involvement with cocaine to weekly. Two or three months into his use, Applicant began to purchase cocaine from his friends at a cost of \$100.00 per week. He worked overtime to support his weekly use, which continued to May 1995.

In February 1995, Applicant had an argument with his girlfriend during which he forced her out of the door of their apartment by kicking her in the derriere. The next day, Applicant went to the home of his girlfriend's parents looking for her. She contacted the police and complained Applicant had grabbed her by the upper arm, and had also kicked her while wearing work boots the day before. Applicant was stopped in the area and arrested for assault and battery with a dangerous weapon (the work boots). Applicant admitted to the judge in court that he had a drinking problem that contributed to his anger toward his girlfriend. (2) In early April 1995, the charge was amended to simple assault and battery, to which he pleaded guilty as he and his girlfriend were reconciling (which was not successful), and his case was continued without a finding for one year with conditions of supervision (including no alcohol abuse) and three Alcoholics Anonymous (AA) meetings per week.

Imbibing large amounts of vodka and using cocaine, Applicant began to have attendance problems at work in 1995. Realizing he needed to make a complete lifestyle change, he sought the assistance of his supervisor and of the benefits manager at work. Advised by the latter that he should consider a detoxification program, Applicant admitted himself for detoxification in May 1995 to a local hospital. Diagnosed by a staff physician as suffering from alcohol dependence and cocaine dependence, Applicant was placed on Ativan protocol. Three days later, following a safe withdrawal and some

individual and group counseling, Applicant was discharged with a recommendation of day treatment. Applicant elected to pursue outpatient counseling, but he did not follow through after three visits as his employer rescinded his flex time.

In violation of his probation, Applicant failed to report to his probation officer, to pay his probation fee or to attend the required number of AA meetings. In mid-June 1995, he was ordered by the court to appear for alleged violations of probation. The order of surrender was dismissed in July 1995.

In Fall 1995, Applicant was out of work on a medical leave of absence related to stomach problems. Applicant failed to respond to a request by his employer to call or return to work, and he was terminated from his job. Applicant appealed the termination, and he was reinstated one year later with seniority but no back pay. Applicant got behind on his financial obligations due to lack of income. He began taking cash advances from his credit cards to pay his child support obligation. In late October 1997, his court-ordered child support was increased from \$292 to \$317 weekly with the \$25 extra going to arrearage.

Circa 1996, Applicant and his current girlfriend moved in together. Applicant resumed his consumption of alcohol. From 1996 to at least July 2001, Applicant imbibed "a couple of beers" occasionally at his home when watching a sporting event or at a family gathering.

Informed that he needed a security clearance for his duties, Applicant on January 17, 2000, executed a security clearance application (SF 86). He disclosed he had been arrested for assault in 1995, used cocaine weekly from June 1994 to May 1995, and been counseled for alcohol at a local hospital in May 1995. He also reported outstanding debts of \$2,000 incurred in August 1995, and garnishment of his wages in the amount of \$320 weekly since January 1994 for child support.

As of October 2000, Applicant had bad debts with four creditors totaling about \$6,034 in the aggregate. Aware he had delinquent debts with two creditors, Applicant made no effort to make any payments, as he hoped to get a settlement from his employer for salary lost when he was out of work which he could devote to his old debts. He has heard nothing from his employer on the issue since sometime in 2001.

On July 17, 2001, Applicant was interviewed by a special agent of the Defense Security Service (DSS) about his involvement with illegal drugs and alcohol, his criminal arrests, unresolved delinquencies, and his employment termination in 1995. Applicant detailed his use of cocaine from June 1994 to May 1995 and his purchase of the drug, which strained his finances. He acknowledged excessive alcohol consumption in 1988, and again from 1993 to 1995 after a significant period of abstinence. Following his counseling at the hospital in 1995, Applicant indicated he stopped drinking on his own until 1996, when he began the occasional consumption of beer that continues to date. Applicant denied any use of cocaine since 1995 or any intent of future involvement. With regard to his 1995 arrest for assault on his former girlfriend, Applicant related he "pushed and shoved her while intoxicated and made an ill attempt to give her a kick." He admitted he had initially failed to adhere to the probation terms for the offense. Applicant did not dispute the delinquent debt reflected on his credit report, and expressed his intent to pay off his debts in full if given an acceptable settlement by his employer for his wrongful termination in 1995. Applicant related he and his girlfriend were living from paycheck to paycheck.

Sometime in early November 2002, Applicant had a physical altercation with his girlfriend's brother who was temporarily residing with them. An argument ensued after Applicant arrived home to find all the stove burners turned on, the heat cranked up, and his girlfriend's brother passed out due to heroin use. The dispute became physical and Applicant was arrested on a phone complaint of assault and battery. The charge was dismissed without prejudice.

At the request of DOHA, Applicant responded on November 18, 2002, to interrogatories concerning his alcohol use and financial status. Applicant indicated he was currently drinking "4-5 beers a day" but not to intoxication. Asked to provide documentation of the four outstanding debts he had discussed during his DSS interview, Applicant responded, "I had no idea that I owed money to these people. No one is after me." He provided a personal financial statement reflecting a monthly net remainder of \$500 after payment of expenses and a savings plan loan.

Applicant earned about \$60,000.00 in 2002 because of overtime. Financially strapped as of July 2003, Applicant had made no payments on the \$6,034 in delinquent debt owed and had made no effort to contact his employer about his back

pay since 2001. He was paying for his oldest son to attend a private college. No longer required to pay child support for his 19-year-old son who elected not to attend college, Applicant has \$292 per week being garnisheed from his paycheck for child support.

Applicant consumes "a few beers here or there" when socializing with others outside the home. On occasion, he may drink four to five beers at a sitting. Having consumed a couple of beers the day before the hearing, Applicant cannot promise he will never drink alcohol again, but he considers his alcohol problem to be of the past. He no longer drinks to get drunk, as his girlfriend is dependent on him, especially for cooking and transportation.

POLICIES

The adjudication process is based on the whole person concept. All available, reliable information about the person, past and present, favorable and unfavorable, is to be taken into account in reaching a decision as to whether a person is an acceptable security risk. Enclosure 2 to the Directive sets forth adjudicative guidelines which must be carefully considered according to the pertinent criterion in making the overall common sense determination required. Each adjudicative decision must also include an assessment of the nature, extent, and seriousness of the conduct and surrounding circumstances; the frequency and recency of the conduct; the individual's age and maturity at the time of the conduct; the motivation of the individual applicant and extent to which the conduct was negligent, willful, voluntary or undertaken with knowledge of the consequences involved; the absence or presence of rehabilitation and other pertinent behavioral changes; the potential for coercion, exploitation and duress; and the probability that the circumstances or conduct will continue or recur in the future. *See* Directive 5220.6, Sections 6.3 and E2.2. Because each security case presents its own unique facts and circumstances, it should not be assumed that the factors exhaust the realm of human experience or that the factors apply equally in every case. Moreover, although adverse information concerning a single criterion may not be sufficient for an unfavorable determination, the individual may be disqualified if available information reflects a recent or recurring pattern of questionable judgment, irresponsibility or emotionally unstable behavior. *See* Directive 5220.6, Enclosure 2, Section E2.2.4.

Considering the evidence as a whole, the following adjudicative guidelines are most relevant to this case:

GUIDELINE J

Criminal Conduct

The Concern: A history or pattern of criminal activity creates doubt about a person's judgment, reliability and trustworthiness.

Conditions that could raise a security concern and may be disqualifying include:

Allegations or admission of criminal conduct, regardless of whether the person was formally charged (E2.A10.1.2.1.);

A single serious crime or multiple lesser offenses (E2.A10.1.2.2.).

Conditions that could mitigate security concerns include:

The factors leading to the violation are not likely to recur (E2.A10.1.3.4.).

GUIDELINE G

Alcohol Consumption

The Concern: Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness.

Conditions that could raise a security concern and may be disqualifying include:

Alcohol-related incidents away from work, such as . . . fighting (E2.A7.1.2.1.);

Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist or psychiatrist) of alcohol abuse or alcohol dependence (E2.A7.1.2.3.);

Habitual or binge consumption of alcohol to the point of impaired judgment (E2.A7.1.2.5.).

Conditions that could mitigate security concerns include:

Following diagnosis of alcohol abuse or alcohol dependence, the individual has successfully completed inpatient or outpatient rehabilitation along with aftercare requirements, participates frequently in meetings of Alcoholics Anonymous or a similar organization, has abstained from alcohol for a period of at least 12 months, and received a favorable prognosis by a credentialed medical professional or licensed clinical social worker who is a staff member of a recognized alcohol treatment program (E2.A7.1.3.4.).

Guideline F

Financial Considerations

The Concern: An individual who is financially overextended is at risk of having to engage in illegal acts to generate funds. Unexplained affluence is often linked to proceeds from financially profitable criminal acts.

Conditions that could raise a security concern and may be disqualifying include:

A history of not meeting financial obligations (E2.A6.1.2.1.);

Inability or unwillingness to satisfy debts (E2.A6.1.2.3.).

Conditions that could mitigate security concerns include:

The conditions that resulted in the behavior were largely beyond the person's control (e.g., loss of employment . . .) (E2.A6.1.3.3.).

GUIDELINE E

Personal Conduct

The Concern: Conduct involving questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations could indicate that the person may not properly safeguard classified information.

Conditions that could raise a security concern and may be disqualifying also include:

None applicable.

* * *

Under Executive Order 10865 as amended and the Directive, a decision to grant or continue an applicant's clearance may be made only upon an affirmative finding that to do so is clearly consistent with the national interest. In reaching the fair and impartial overall common sense determination required, the Administrative Judge can only draw those inferences and conclusions which have a reasonable and logical basis in the evidence of record. In addition, as the trier of fact, the Administrative Judge must make critical judgments as to the credibility of witnesses. Decisions under the Directive include consideration of the potential as well as the actual risk that an applicant may deliberately or inadvertently fail to properly safeguard classified information.

Burden of Proof

Initially, the Government has the burden of proving any controverted fact(s) alleged in the SOR. If the Government meets its burden and establishes conduct cognizable as a security concern under the Directive, the burden of persuasion then shifts to the applicant to present evidence in refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of guideline conduct, it is clearly consistent with the national interest to grant or continue his security clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. Where the facts proven by the Government raise doubts about an applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that he is nonetheless security worthy. As noted by the United States Supreme Court in *Department of Navy v. Egan*, 484 U.S. 518, 531 (1988), "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials." Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security. *See* Directive, Enclosure 2, Section E2.2.2.

CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors and having assessed the credibility of the Applicant, I conclude the following with respect to guidelines J, G, F and E:

Criminal Conduct

Applicant was arrested for assault and battery in 1975, 1995, and 2002, following physical altercations with a police officer, with his then girlfriend, and with his current girlfriend's brother, respectively. The charges were either dismissed or continued without a formal adjudication of guilt. The Government is not bound by the legal disposition of an offense with respect to considering whether Applicant engaged in a criminal act (*see* E2.A10.1.2.1., allegations of criminal conduct are potentially disqualifying). Applicant admits to scuffling with the police officer when being placed in a jail cell in 1975. Although he now maintains that only pushed his ex-girlfriend out the door with his foot in 1995, he admitted to a DSS agent in 2001 he "pushed and shoved her while intoxicated and made an ill attempt to give her a kick." (Ex. 2). Applicant does not dispute that he wrestled with his girlfriend's brother in 2002, but he claims his actions were in self-defense. Whether his assault can be excused based on self-defense is a matter of mitigation. There is no pattern to these criminal incidents, given the passage of time between them, but a history of criminal activity still creates doubt about a person's judgment, reliability, and trustworthiness. Under Guideline J, E2.A10.1.2.1. and E2.A10.1.2.2. (multiple lesser offenses) apply in this case.

Applicant clearly exhibited poor judgment and a lack of self-control when he engaged in assaultive behavior. The 1975 offense, which involved underage drinking, is excused on the basis of his immaturity (*see* E2.2.1.4., which requires the adjudicator to consider the person's age and immaturity at the time of the conduct). Applicant's 1995 assault on his former girlfriend was in the context of a volatile personal relationship when Applicant was an active abuser of both alcohol and cocaine. Although he exhibited some minimization at the hearing as to the extent of his culpability (he testified he gave her a push rather than kicked her out the door), there is unlikely to be any recurrence. There is no evidence of any ongoing contact with this former girlfriend, or of any assault of his present girlfriend. He has remained with, and cared for her despite her significant disabilities, indicative of greater maturity and commitment to a personal relationship. With regard to the November 2002 incident at his home involving her brother, Applicant maintains he acted only after his girlfriend's brother "went right for [his] throat." (Transcript p. 42). The Government relied solely on Applicant's accounts, submitting no arrest or court records to undermine his claim of self-defense, and the charge was dismissed, albeit without prejudice. Given the incidents of fighting have been aberrational, favorable findings are warranted with respect to subparagraphs 1.a., 1.b., and 1.c. of the SOR.

Alcohol Consumption

While the Directive does not prohibit drinking per se, excessive alcohol consumption is of concern because it often leads to the exercise of questionable judgment, unreliability, failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness. Applicant was concerned enough about his drinking to admit himself for detoxification and counseling in 1988 and 1992. As his marriage deteriorated, Applicant looked to alcohol as a release. Although Applicant now denies alcohol was involved in his February 1995 assault on his

former girlfriend, he admitted to a DSS agent in July 2001 that he was intoxicated during the incident, and he was ordered to attend AA by the court. By May 1995, his drinking was affecting his attendance at work. On the advice of a benefits manager, Applicant underwent detoxification treatment at a local hospital where he was diagnosed as suffering from alcohol and cocaine dependence.

Disqualifying conditions E2.A7.1.2.1.(alcohol related incidents away from work, such as . . . fighting), E2.A7.1.2.3. (diagnosis by a credentialed medical professional of alcohol abuse or alcohol dependence), and E2.A7.1.2.5. (habitual or binge consumption of alcohol to the point of impaired judgment) are pertinent to an evaluation of Applicant's security suitability. After his successful detoxification in May 1995, Applicant remained abstinent to sometime in 1996. He has since consumed beer in quantity of up to four or five beers per occasion. A brief inpatient stay for detoxification is not considered alcohol rehabilitation, so E2.A7.1.2.6. (consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program) does not fit the facts of this case. However, his continued drinking after a diagnosis of alcoholism increases the risk of future alcohol-related impairment.

As recently as November 2002, Applicant reported in interrogatories for DOHA that he was drinking four or five beers on a daily basis, which he maintains did not lead to his intoxication. Applicant now denies that he engaged in daily consumption either as of November 2002 or currently, and attributes his report of daily drinking to him "probably sitting with a few buddies in the tool room, bitching about all the paperwork [when he completed the interrogatories]" (Transcript p. 59). Assuming Applicant's job is as important to him as he asserts, then it is not believable that he would indicate daily consumption of four or five beers if it was untrue. Applicant's continued consumption of alcohol in that amount, even on an occasional basis, presents a significant security risk. Under E2.A7.1.3.4., following a diagnosis of alcohol dependence, the individual is required to successfully complete inpatient or outpatient rehabilitation along with aftercare requirements, participate frequently in meetings of AA or a similar organization, abstained from alcohol for a period of at least twelve months, and have a favorable prognosis rendered by a credentialed medical professional or licensed clinical social worker who is a staff member of a recognized alcohol treatment program. Applicant has not received any alcohol treatment since his detoxification in May 1995. He is not involved in AA and sees no need for it. When asked whether he had a sponsor in AA, Applicant responded, "Who would want to sponsor someone that does drink?" (Transcript p. 67), demonstrating some recognition that his consumption is against AA tenets. Assuming Applicant has moderated his drinking since November 2002 based on the absence of any evidence of recent impairment, it is too soon to conclude that his alcohol problems are safely of the past. Subparagraphs 2.a., 2.b., and 2.c. are found against him.

Financial Considerations

Applicant owes about \$6,034 in delinquent consumer debt which he has made no effort to resolve. Under Guideline F, the security eligibility of an applicant is placed into question when he is shown to have a history of financial indebtedness, recurring financial difficulties, or a history of not meeting his financial obligations. Individuals who have demonstrated financial irresponsibility may be more susceptible to mishandling or compromising classified information or material for financial gain, or be at risk of having to engage in illegal acts to generate funds. E2.A6.1.2.2. (a history of not meeting financial obligations) and E2.A6.1.2.3. (inability or unwillingness to satisfy debts) apply.

The concern here is not with the fact that Applicant fell behind on four accounts, as his financial difficulties are attributable to the fact that he has had to pay in excess of \$300 per week in child support and the lack of income during the 1995/96 time frame after he was terminated for failure to notify his employer of his inability to work due to illness. Mitigating condition E2.A6.1.3.3. (conditions that resulted in the behavior were largely beyond the person's control) applies in cases where the debt was not due to overspending or other financial irresponsibility.

The salient issue is whether Applicant's failure to make any payments on the four delinquent debts can be excused because of factors outside of his control. Although Applicant indicated in response to financial interrogatories in November 2002 that he had no idea that he owed money to the four listed creditors, he had not disputed these debts when interviewed in July 2001. At that time, he expressed his intent to satisfy these debts on his receipt of a settlement from his employer for the income lost during the year he was off the job. Applicant has a very significant child support obligation plus arrearage that he pays through voluntary garnishment of his wages. He also is required to pay some of

the costs associated with one son's college education. With his girlfriend's disability, Applicant lacks the means to pay his old delinquencies, as they live "paycheck to paycheck." It appears Applicant is not in a financial position to pay these old debts without his employer's settlement. Applicant admitted at his hearing that the last conversation he had with his employer's representative on this matter was two years ago. Applicant maintains, not rebutted by the Government, he was told it was an issue between the company and the union, so he could do nothing about it. Applicant timely pays his living expenses. There is no evidence of any new delinquencies or extravagant expenditure that might suggest a cavalier attitude toward his financial obligations. While the debts alleged in SOR subparagraphs 3.a., 3.b., 3.c. and 3.d. have yet to be satisfied, Applicant has provided a reasonable explanation for his failure to pay them as well as a record of attention to more immediate financial obligations. A favorable outcome is warranted as to the financial considerations concerns.

Personal Conduct

Applicant's knowing violation of his probation by failing to attend AA in 1995, and his consumption of alcohol against medical advice since 1996, bear negative security implications, not only for the state of his rehabilitation from diagnosed alcohol dependence, but also for the quality of his personal judgment and reliability. Guideline E concerns are raised by conduct involving questionable judgment and an unwillingness to comply with rules and regulations (*see* E2.A5.1.2.5., a pattern of rule violations). Whereas Applicant has not violated a specific regulation or written agreement by continuing to drink after being advised to abstain, E2.A5.1.2.5. is not directly applicable to this case, but his ongoing consumption of alcohol, in quantity of four or five beers on occasion, precludes me from finding that he possesses the requisite good judgment that must be demanded of those with access. SOR subparagraph 4.a. is resolved against him.

FORMAL FINDINGS

Formal Findings as required by Section 3. Paragraph 7 of Enclosure 1 to the Directive are hereby rendered as follows:

Paragraph 1. Guideline J: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Subparagraph 1.b.: For the Applicant

Subparagraph 1.c.: For the Applicant

Paragraph 2. Guideline G: AGAINST THE APPLICANT

Subparagraph 2.a.: Against the Applicant

Subparagraph 2.b.: Against the Applicant

Subparagraph 2.c.: Against the Applicant

Paragraph 3. Guideline F: FOR THE APPLICANT

Subparagraph 3.a.: For the Applicant

Subparagraph 3.b.: For the Applicant

Subparagraph 3.c.: For the Applicant

Subparagraph 3.d.: For the Applicant

Paragraph 4. Guideline E: AGAINST THE APPLICANT

Subparagraph 4.a.: 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.

Elizabeth M. Matchinski

Administrative Judge

1. The SOR was issued under Executive Order 10865 (as amended by Executive Orders 10909, 11328, and 12829) and Department of Defense Directive 5220.6 (Directive), dated January 2, 1992 (as amended by Change 4).
2. Applicant provided conflicting accounts of alcohol involvement on that occasion. When interviewed on July 17, 2001, Applicant indicated he was intoxicated. (Ex. 2). He testified at his hearing that he had not consumed any alcohol that night, although he had a drinking problem. (Transcript p. 47). Applicant also testified that when the officers arrested him (the day after he kicked his girlfriend) they administered field sobriety tests. Such tests are not routinely done without some indication that the person had been drinking alcohol, so it is likely he had consumed alcohol on at least the day of his arrest. Applicant also denies that he inflicted any injury on his former girlfriend, although he admits he pushed her out the door with his foot while he had his work boots on. (Transcript p. 45). There is sufficient evidence to find he assaulted her.