

DATE: December 9, 2003

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-00380

DECISION OF ADMINISTRATIVE JUDGE

JOSEPH TESTAN

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant's approximately two years of abstinence, together with his credibly stated intention not to use illegal drugs in the future, is sufficient to overcome the Government's case under Guideline H. Clearance is granted.

STATEMENT OF THE CASE

On February 5, 2003, 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 March 11, 2003, 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 May 9, 2003. Applicant did not file a response to the FORM. The case was assigned to me on June 18, 2003.

FINDINGS OF FACT

Applicant is a 30 year old employee of a defense contractor.

Applicant used marijuana with varying frequency, at times daily, from approximately 1995 to May 2001. He used it to help him relax. He purchased marijuana an unknown amount of times.

Applicant used psilocybin mushrooms once in 1992, LSD three times between 1992 and 1995, and cocaine about 24 times from July through December 2000. He purchased cocaine once.

Applicant last used an illegal drug (marijuana) in May 2001, about a week before he filled out his security clearance

application. In his response to the FORM, applicant stated that prior to obtaining his current employment, he did not consider the impact drug use might have on his career. Now that he knows drug use is incompatible with his career plans, he is motivated to abstain from any future use.

In both a signed, sworn statement that he gave to the Defense Security Service (DSS) in July 2001, and in his response to the FORM, applicant stated that he did not intend to use illegal drugs in the future.

POLICIES

Enclosure 2 of the Directive sets forth Guidelines (divided into Disqualifying Factors and Mitigating Factors) which must be followed by the Administrative Judge. Based on the foregoing Findings of Fact, the following Disqualifying Factors and Mitigating Factors are applicable:

Drug Involvement

Disqualifying Factors

E2.A8.1.2.1: Any drug abuse.

E2.A8.1.2.2: Illegal drug possession and purchase.

Mitigating Factors

E2.A8.1.3.1: The drug involvement was not recent.

E2.A8.1.3.3: A demonstrated intent not to abuse any drugs in the future.

CONCLUSIONS

The evidence establishes that applicant used marijuana with varying frequency, at times daily, from approximately 1995 to May 2001. The evidence further establishes that applicant used other illegal drugs; namely, psilocybin mushrooms once in 1992, LSD three times between 1992 and 1995, and cocaine 24 times from July through December 2000. This conduct reflects adversely on applicant's judgment, reliability and trustworthiness, and suggests that he cannot be relied upon to safeguard classified information.

Applicant has abstained from the use of illegal drugs since May 2001. His approximately two years of abstinence, together with his credibly stated intention not to use illegal drugs in the future, is sufficient to overcome the Government's case under Guideline H. Accordingly, it is now clearly consistent with the national interest to grant him access to classified information.

FORMAL FINDINGS

PARAGRAPH 1: FOR THE APPLICANT

DECISION

In light of all the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for applicant.

Joseph Testan

Administrative Judge

