

KEYWORD: Alcohol

DIGEST: Applicant is a 65-year-old part-time employee of a defense contractor with a history of excessive alcohol consumption. He consumed alcohol from 1972 to at least April 2002 on a regular basis, at times to excess, and to the point of intoxication. He completed inpatient treatment for alcoholism in 1984 and outpatient treatment for chronic alcoholism in 2001-2. He ignored professional advice to abstain and resumed drinking alcohol on a daily basis. Applicant's actions leave grave doubts as to his security eligibility. Clearance is denied.

CASENO: 02-28533.h1

DATE: 02/01/2005

DATE: February 1, 2005

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-28533

DECISION OF ADMINISTRATIVE JUDGE

JACQUELINE T. WILLIAMS

APPEARANCES

FOR GOVERNMENT

Marc E. Curry, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 65-year-old part-time employee of a defense contractor with a history of excessive alcohol consumption. He consumed alcohol from 1972 to at least April 2002 on a regular basis, at times to excess, and to the point of intoxication. He completed inpatient treatment for alcoholism in 1984 and outpatient treatment for chronic alcoholism in 2001-2. He ignored professional advice to abstain and resumed drinking alcohol on a daily basis. Applicant's actions leave grave doubts as to his security eligibility. Clearance is denied.

STATEMENT OF THE CASE

The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant under Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended and modified (the "Directive"). On March 12, 2004, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision: security concerns under Guideline G (Alcohol Consumption).

Applicant answered the SOR on April 14, 2004. Applicant admitted all of the factual allegations. He elected to have the case decided on the written record in lieu of a hearing.

Department Counsel submitted the Government's written case on November 8, 2004. Department Counsel provided a complete copy of the file of relevant material (FORM) to Applicant, along with notice of his opportunity to file objections and submit material to refute, extenuate, or mitigate the disqualifying conditions. Applicant received the FORM on November 19, 2004 but did not provide additional materials for consideration. The case was assigned to me on January 14, 2005.

FINDINGS OF FACT

Applicant admitted each of the factual allegations contained in the SOR. Those admissions are incorporated herein as findings of fact. After a complete and thorough review of the evidence in the record, I make the following additional findings of fact:

Applicant is a 65-year-old part-time employee of a federal contractor. He has been employed in this position since July 1999. ⁽¹⁾

Applicant signed the security clear application (SF 86) on January 20, 2000. Question 19 of SF 86 asked: *In the last 7 years, have you consulted a mental health professional (psychiatrist, psychologist, counselor, etc.) or have you consulted with another health care provider about a mental health related condition?* Applicant responded "yes." ⁽²⁾ On April 10, 2002, Applicant was interviewed in reference to Question 19. The interview focused on Applicant's medical treatment, which included Applicant providing information about his alcohol abuse. ⁽³⁾

Applicant is a recovering alcoholic and he suffers from depression. ⁽⁴⁾ He received inpatient treatment for alcoholism in 1984. ⁽⁵⁾ He received outpatient treatment for alcoholism from approximately June 2001 to April 2002 at a primary care center. ⁽⁶⁾ He continued to consume alcohol

from approximately 1985 to at least April 2002, notwithstanding his treatment for alcoholism. ⁽⁷⁾ *Applicant has not been taking his prescribed medicine to combat alcoholism because he prefers to drink.* ⁽⁸⁾ *From approximately June 2001 to April 2002, he consumed an average of twelve, sixteen-ounce beers on a daily basis.* ⁽⁹⁾

According to Applicant, he has never: experienced any problems stemming from his alcohol problem; been arrested for DUI; lost time at work; been fired from a job; been violent toward his wife or others; experienced financial difficulties; been disciplined by any employer or law enforcement agency. ⁽¹⁰⁾ *Applicant stated that "he is a good drunk and that he just likes to sit home and drink his beer."* ⁽¹¹⁾

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines which must be considered in the evaluation of security suitability. In addition to brief introductory explanations for each guideline, the adjudicative guidelines are divided into those that may be considered in deciding whether to deny or revoke an individual's eligibility for access to classified information (Disqualifying Conditions) and those that may be considered in deciding whether to grant an individual's eligibility for access to classified information (Mitigating Conditions).

An administrative judge need not view the adjudicative guidelines as inflexible ironclad rules of law. Instead, acknowledging the complexities of human behavior, these guidelines, when applied in conjunction with the factors set forth in the Adjudicative Process provision set forth in Section E2.2, Enclosure 2, of the Directive, are intended to assist the administrative judge in reaching fair and impartial commonsense decisions.

Because the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept," all available, reliable information about the person, past and present, favorable and unfavorable, should be considered in making a meaningful decision. The adjudicative process factors which an administrative judge should consider are: (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 voluntariness of participation; (6) the presence or absence of rehabilitation and other pertinent 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.

Based on a consideration of the evidence as a whole, I find the following adjudicative guideline most pertinent to an evaluation of the facts of this case:

Guideline G - Alcohol Consumption: Excessive alcohol consumption often leads to the exercise of questionable judgment, unreliability, [and] failure to control impulses, and increases the risk of unauthorized disclosure of classified information due to carelessness. Directive, ¶ E2.A7.1.1.

Conditions that could raise a security concern and may be disqualifying, as well as those

which could mitigate security concerns pertaining to these adjudicative guidelines, are set forth and discussed in the conclusions below.

In the decision-making process, the burden of producing evidence initially falls on the government to establish a case which demonstrates, in accordance with the Directive, that it is not clearly consistent with the national interest to grant or continue an applicant's access to classified information. If the government meets its burden, the heavy burden of

persuasion then falls upon the applicant to present evidence in refutation, explanation, extenuation, or mitigation sufficient to overcome the doubts raised by the government's case and to ultimately demonstrate it is clearly consistent with the national interest to grant or continue the applicant's clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated on trust and confidence. It is a relationship that transcends normal duty hours and endures throughout off-duty hours as well. Because of this special relationship, the government must be able to repose a high degree of trust and confidence in those individuals to whom it grants access to classified information. Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions are predictive in nature and must often address potential, rather than actual, risk of compromise of classified information.

Finally, Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides that industrial security clearance decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism. Nothing in this Decision should be construed to suggest I have based this decision, in whole or in part, on any express or implied decision as to Applicant's allegiance, loyalty, or patriotism.

CONCLUSIONS

Upon consideration of all the facts in evidence, an assessment of credibility, and after application of all appropriate legal precepts, factors, and conditions, including those described briefly above, I conclude the following with respect to each allegation set forth in the SOR:

The Applicant has not introduced persuasive evidence in explanation or mitigation that is sufficient to overcome the government's case.

The evidence shows that the Applicant continues to have a problem with alcohol. By his own admission, he is an alcoholic. From approximately 1972 to at least April 2002, Applicant has consumed alcohol, at times to excess, and to the point of intoxication. He has exhibited questionable judgement, irresponsibility, and immature behavior by abusing alcohol. He was in an inpatient treatment program in 1984 and was diagnosed as an alcoholic. He admits staying sober during the program, but shortly thereafter, he began drinking again. Likewise, in 2001-2, he participated in a rehabilitation program; he was diagnosed with alcoholism. He stayed sober during the program, but began drinking shortly thereafter. Following rehabilitation treatment two separate times for alcohol abuse, Applicant was not able to

stay sober. His situations do not fall within Alcohol Consumption Disqualifying Condition (AC DC) E2.A7.1.2.3. (diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence) or AC DC E2.A7.1.2.4. (evaluation of alcohol abuse or alcohol dependence a licensed clinical social worker who is a staff member of a recognized alcohol treatment program).

Applicant stopped taking his medicine for alcoholism because he preferred drinking alcohol. He acknowledged that at times he consumed an average of twelve, sixteen-ounce beers on a daily basis. His reckless conduct falls within AC DC E2.A7.1.2.5. (habitual or binge consumption of alcohol to the point of impaired judgment).

Complete honesty and candor on the part of applicants for access to classified information is essential to make an accurate, meaningful security clearance determination. Without all of the relevant and material facts, a clearance decision is susceptible to error, thus jeopardizing the nation's security. An applicant's responsibilities associated with the granting of a security clearance are considerable in terms of protecting the national security and in maintaining appropriate personal conduct. Along with the responsibilities is accountability. In this instance, Applicant is now accountable for those past actions and activities.

Applicant has been forthright regarding his alcohol abuse problem. Based on the evidence presented, I possess little confidence that Applicant's alcohol abuse will cease, unless Applicant decides that he would like to stop drinking. The Alcohol Consumption Mitigation Condition (AC MC) E2.A7.1.3.2. (the problem occurred a number of years ago and there is no indication of a recent problem) and AC MC E2.A7.1.3.4 (following a 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 a credentialed medical professional or licensed clinical social worker), are not appropriate in this case. Here, Applicant's most recent treatment for alcoholism was in 2001-2 and he continued drinking shortly after the program ended. Thus, there is no evidence in the record to show that either the treatment in 1984 or 2001-2 was successful because he has never ceased drinking for a significant period of time following his diagnoses for alcohol abuse. Moreover, the record does not reflect that Applicant ever attended Alcoholics Anonymous meetings or a similar organizational type meeting. Applicant has participated in two alcohol rehabilitation treatment programs. However, after the treatment terminated each time, Applicant resumed drinking alcohol. Considering all the facts and circumstances, I conclude these mitigating condition do not apply.

Based on the law, as set forth in Department of Navy v. Egan, 484 U.S. 518 (1988), my evaluation of the evidence, and my application of the pertinent factors under the Adjudicative Process, I find Applicant has failed to mitigate or overcome the government's case. The evidence leaves me with grave questions and doubts as to Applicant's security eligibility and suitability. Accordingly, allegations 1.a. through 1.d. of the SOR are concluded against Applicant.

For the reasons stated, I conclude Applicant is not eligible for access to classified information.

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 G: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraph 1.b: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against Applicant

DECISION

In light of all of 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. Clearance is denied.

Jacqueline T. Williams*Administrative Judge*

- 1. Item 4 (Security Clearance Application (SF 86) dated January 20, 2000), at 2.*
- 2. Id., at 5.*
- 3. Item 5 (Summary of interview extracted from DSS Report of Investigation dated April 20, 2002), at 2.*
- 4. Id., at 2.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.*

9. *Id.*

10. *Id.*

11. *Id.*