

KEYWORD: Mental

DIGEST: In March of 2005, a Licensed Clinical Psychologist issued a provisional diagnosis of the Applicant. She averred that the Applicant was most likely suffering from a Paranoid Personality Disorder, which "condition definitely causes significant defects or likely defects in judgment and reliability," and "is not now in remission." At the Applicant's December 15, 2005, hearing, the same Clinical Psychologist observed the Applicant's demeanor, and reiterated her provisional diagnosis. She averred that the Applicant's condition impacted her reliability, stability, and was continuing in nature. Mitigation is not shown. Clearance is denied.

CASENO: 02-17574.h1

DATE: 01/18/2006

DATE: January 18, 2006

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 02-17574

DECISION OF ADMINISTRATIVE JUDGE

RICHARD A. CEFOLA

APPEARANCES

FOR GOVERNMENT

Edward W. Loughran, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

In March of 2005, a Licensed Clinical Psychologist issued a provisional diagnosis of the Applicant. She averred that the Applicant was most likely suffering from a Paranoid Personality Disorder, which "condition definitely causes significant defects or likely defects in judgment and reliability," and "is not now in remission." At the Applicant's December 15, 2005, hearing, the same Clinical Psychologist observed the Applicant's demeanor, and reiterated her provisional diagnosis. She averred that the Applicant's condition impacted her reliability, stability, and was continuing in nature. Mitigation is not shown. Clearance is denied.

STATEMENT OF THE CASE

On April 27, 2005, 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 the Applicant, which detailed the 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 and recommended referral to an Administrative Judge to determine whether a clearance should be denied or revoked.

Applicant filed an Answer to the SOR on or about May 24, 2005.

The case was received by the undersigned on September 9, 2005. A notice of hearing was issued on November 15, 2005, and the case was heard on December 15, 2005. The Government submitted documentary evidence, and called one witness to testify. Testimony was taken from the Applicant, who also submitted documentary evidence. The transcript (TR) was received on December 29, 2005. The issue raised here is whether the Applicant's Personality Disorder militates against the granting of a security clearance. [The Applicant denies the presence of "any emotional, mental or personality disorder."]

FINDINGS OF FACT

The following Findings of Fact are based on Applicant's Answer to the SOR, the documents and the live testimony. The Applicant is 56 years of age, and is employed by a defense contractor who seeks a security clearance on behalf of the Applicant. After a complete and thorough review of the evidence in the record, and upon due consideration of the same, I make the following additional findings of fact.

Guideline I - Emotional, Mental and Personality Disorders

1.a. In March of 2005, a Licensed Clinical Psychologist issued a provisional diagnosis of the Applicant (Government Exhibits (GXs) 6 and 8, *see also* TR at page 28 line 18 to page 48 line 17). She averred that the Applicant was most likely suffering from a Paranoid Personality Disorder, which "condition definitely causes significant defects or likely defects in judgment and reliability," and "is not now in remission" (*Id*). At the Applicant's December 15, 2005, hearing, the same Clinical Psychologist observed the Applicant's demeanor, and reiterated her provisional diagnosis. She averred that the Applicant's condition impacted her reliability, stability, and was continuing in nature (TR at page 62 lines 9~17).

Mitigation

Those who know the Applicant and/or work with her think most highly of her (Applicant's Exhibit A).

POLICIES

Enclosure 2 and Section E2.2. of the 1992 Directive set forth both policy factors and conditions that could raise or mitigate a security concern, and which must be given binding consideration in making security clearance determinations. The conditions should be followed in every case according to the pertinent criterion, however, the conditions are neither automatically determinative of the decision in any case, nor can they supersede the Administrative Judge's reliance on his own common sense. Because each security clearance case presents its own unique facts and circumstances, it should not be assumed that these conditions exhaust the realm of human experience, or apply equally

in every case. As set forth in the Directive, each clearance decision must be a fair and impartial common sense determination based upon consideration of all the relevant and material information and the pertinent criteria and adjudication policy in enclosure 2, including as appropriate:

- a. Nature, extent and seriousness of the conduct, and surrounding circumstances.
- b. Frequency and recency of the conduct.
- c. Age and maturity of the applicant.
- d. Motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequence involved.
- e. Absence or presence of rehabilitation.
- f. Probability that circumstances or conduct will continue or recur in the future.

The Administrative Judge, however, can only draw those inferences or conclusions that have a reasonable and logical basis in the evidence of record. The Judge cannot draw inferences or conclusions based on evidence which is speculative or conjectural in nature.

The Government must make out a case under Guideline I (Emotional, Mental, and Personality Disorders) which establishes doubt about a person's judgment, reliability and trustworthiness. While a rational connection, or nexus, must be shown between an applicant's adverse conduct and her ability to effectively safeguard classified information, with respect to sufficiency of proof of a rational connection, objective or direct evidence is not required.

Then, the Applicant must remove that doubt with substantial evidence in refutation, explanation, mitigation or extenuation, which demonstrates that the past adverse conduct is unlikely to be repeated, and that the Applicant presently qualifies for a security clearance.

An individual who suffers from a mental disorder may have a defect in judgement, reliability or stability. The Government must be able to place a high degree of confidence in a security clearance holder to abide by all security rules and regulations at all times and in all places.

CONCLUSIONS

The Applicant is suffering from a condition, which, in the opinion of a credentialed mental health professional "definitely causes significant defects or likely defects in judgment and reliability." The first disqualifying condition is therefore applicable as there is an "opinion by a credentialed mental health professional that the individual has a condition that may indicate a defect in judgement, reliability, and stability." The Applicant offers little to the contrary, save the opinions of those who know her, and say that she is a good person. Furthermore, according to the clinical psychologist, who observed the Applicant during her hearing, the provisional personality disorder is current, and continuing. Guideline I is thus found against the Applicant.

Considering all the evidence, the Applicant has not rebutted the Government's case regarding her personality disorder. The Applicant has thus not met the mitigating conditions of Guidelines I, and of Section E2.2. of the Directive. Accordingly, she has not met her ultimate burden of persuasion under Guideline I.

FORMAL FINDINGS

Formal Findings required by paragraph 25 of Enclosure 3 of the Directive are:

Paragraph 1: AGAINST THE APPLICANT

a. Against the Applicant.

Factual support and reasons for the foregoing are set forth in **FINDINGS OF FACT** and **CONCLUSIONS**, supra.

DECISION

In light 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 the Applicant.

Richard A. Cefola

Administrative Judge