

KEYWORD: Drugs; Personal Conduct

DIGEST: Applicant used marijuana and cocaine while holding a security clearance and employed as a plant protection officer for a defense contractor. Applicant has not used any illegal drug since about August 2000, and intends to remain drug-free, thereby mitigating the drug involvement concerns, but he misrepresented the extent of his illicit substance involvement on his November 1999 security clearance application and in a July 2000 signed, sworn statement provided to a government investigator. Clearance is denied.

CASENO: 03-24988.h1

DATE: 08/05/2005

DATE: August 8, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-24988

DECISION OF ADMINISTRATIVE JUDGE

ELIZABETH M. MATCHINSKI

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Neil A. Hourihan, Esq.

SYNOPSIS

Applicant used marijuana and cocaine while holding a security clearance and employed as a plant protection officer for a defense contractor. Applicant has not used any illegal drug since about August 2000, and intends to remain drug-free, thereby mitigating the drug involvement concerns, but he misrepresented the extent of his illicit substance involvement on his November 1999 security clearance application and in a July 2000 signed, sworn statement provided to a government investigator. Clearance is denied.

STATEMENT OF CASE

On June 10, 2004, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to the 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 drug involvement (Guideline H) and personal conduct (Guideline E).

Applicant, acting *pro se*, responded to the SOR allegations on July 2, 2004, and requested a hearing before a DOHA administrative judge. He subsequently supplemented his answer by letter dated July 3, 2004. The case was assigned to me on November 1, 2004. Counsel for Applicant entered his appearance on December 8, 2004.

Pursuant to notice issued on January 27, 2005, I convened a hearing on March 1, 2005. Three government exhibits and

15 Applicant exhibits were admitted into the record and testimony was taken from the Applicant, as reflected in a transcript received on March 11, 2005. The record was held open until March 8, 2005, for Applicant to submit the curriculum vitae of a mental health provider. Applicant timely forwarded the curriculum vitae for three mental health professionals who had evaluated and/or treated him. Department Counsel having no objection, the documents were marked and admitted as Exhibits P, Q, and R.

FINDINGS OF FACT

The government alleged under Guideline H, drug involvement, that Applicant used marijuana from about 1979 to August 2000; used cocaine from about 1986 to at least April 1999 while holding a secret-level security clearance, and after he had attended a 28-day inpatient treatment program for cocaine use; and purchased cocaine between 1988 and 1998 at a total cost of about \$12,000. Guideline E, personal conduct, was alleged because Applicant did not accurately report his illegal drug involvement on his November 5, 1999, security clearance application (SF 86) or in a July 27, 2000, sworn statement. Applicant admitted he used marijuana and used and purchased cocaine as alleged, and falsified his SF 86 and July 2000 sworn statement. Applicant explained his repeated relapses into illegal drug use were due to belatedly diagnosed attention deficit disorder for which he was being treated. Applicant's admissions are incorporated as findings of fact. After a complete and thorough review of the evidence, I make the following additional findings:

Applicant is a 43-year-old married father of two children, ages 10 and 11. He has been employed full-time as a plant protection officer with a defense contractor since September 1985. Applicant seeks to retain the secret-level security clearance he has held for his duties since December 1985.

Applicant lacked a father-figure in his life as a youth, as his father died when he was not yet five and he had no relationship with his father's family. He floundered through school, and began to use illegal drugs as a high school junior in 1978 or 1979. While he tried mescaline twice in a six month period in 1979/80 and tried hashish once in 1980, he smoked marijuana with friends about three times per week throughout the remainder of high school and into September 1980 when he began studies at a local state college. He dropped out of school after only a few weeks and landed a "dead end" job. His marijuana use continued until September 1981, when he entered on active duty in the U.S. Marine Corps. The military provided him with the structure, challenges, and variation that he craved, and he managed to abstain from illegal drugs during his four years of active duty. Applicant excelled in the Marines, where he was selected for the Marine Corps Honor Guard. In February 1983, he was granted a top secret clearance. Despite his success, he opted to not reenlist, and in September 1985 he was given an honorable discharge. Two weeks after he returned home, he began working for his current employer. In December 1985, he was granted a secret security clearance for his duties as a plant protection officer.

In 1986, Applicant relapsed into sporadic marijuana use, aware that drug use was prohibited while holding a security

clearance. Curious and prone to engage in risky behavior, Applicant also began to snort cocaine. From 1986 to 1988, Applicant's use of cocaine varied from three to more than eight times monthly with friends. Most of the time it was provided to him free of charge, but he purchased one gram or less on occasion. Applicant used cocaine heavily between 1989 and May 1991, spending about \$400 per month (a total of \$4,000 yearly) on the drug. Depending on his work shift and his companions, he used cocaine sometimes four times weekly, other times three days in a row. His attendance at work suffered because of his drug abuse and partying, and he received verbal and written warnings for unsatisfactory attendance from his supervisor.

Despite some weeks where he managed to abstain, Applicant felt addicted to cocaine and knew he could not stop on his own. With the support of his future wife, Applicant sought assistance through his employer's assistance program (EAP) in May 1991. He completed a one-day workshop on issues related to having no father figure, and a 28-day drug rehabilitation treatment program. For the first time, Applicant began to address personal issues relating to the loss of his father and feelings of abandonment. In the first year following his discharge, Applicant abstained from all illegal drugs while attending Narcotics Anonymous (NA) meetings daily for three months, and then three times a week, and participating in private counseling.

Applicant relapsed into cocaine use eight times and marijuana use about three times between 1992 and 2000. In September 1992, he snorted cocaine with old friends at a bachelor party given in his honor. He felt guilty but rationalized it as a "slip," and convinced himself he was in control. In October 1992, Applicant married his spouse and purchased a home. He remained drug-free until November 1993, when his first child, a son, was born premature. Frightened, he used cocaine. He used cocaine with a friend after the funeral of his friend's father. During each summer in 1994 and 1995, he played in a charity golf tournament where he used cocaine and/or marijuana. Sometime in 1996, his father-in-law was diagnosed with cancer. Applicant sold his house and rebuilt another with an in-law apartment. Before the house was completed, his father-in-law died and Applicant and his family lived with his mother-in-law for four months. Angry and frustrated, Applicant used cocaine and marijuana once each. Sometime in summer 1998, Applicant purchased \$25 worth of cocaine on two consecutive ondays while en route to softball games and used the drug. In April 1999, he used cocaine during a golf outing. He smoked marijuana at a sporting event in late July/early August 2000. ⁽²⁾

On November 5, 1999, Applicant and some coworkers were brought into the company's security office where they were asked to complete an electronic security clearance application. Also present were some contract employees from another agency, who were to assist the employees with their forms. Applicant panicked and responded "No" to inquiries concerning any illegal drug use (question 27) or purchase (question 29) within the seven years preceding the application. Knowing he had to answer the questions in the affirmative, Applicant responded "Yes" to using a controlled substance while employed in a sensitive position (question 28), but listed only use of cocaine at "unknown" frequency from January 1990 to May 1991. ⁽³⁾

Applicant was interviewed by a Defense Security Service (DSS) special agent on July 27, 2000, about his illegal drug use. Ashamed about his illegal drug involvement and fearing loss of his security clearance, Applicant deliberately withheld relevant and material facts about his marijuana and cocaine use and purchases. ⁽⁴⁾ As reflected in a signed, sworn statement, he disclosed use of marijuana from 1979 to approximately 1980 a couple times per month, and cocaine twice weekly from approximately January 1990 to May 1991. He related he had never bought marijuana, and had

purchased one gram of cocaine for \$100 approximately 12 times from January 1990 to May 1991. He revealed he had completed a 28-day drug rehabilitation treatment program in 1991, but did not disclose any use of marijuana or cocaine since that treatment.

On December 7, 2000, Applicant was interviewed by a DSS agent following administration of a polygraph. Applicant acknowledged he had not been truthful about his illegal drug involvement on the security questionnaires submitted or in prior interviews, including in a sworn statement of July 27, 2000, due to "embarrassment, guilt, shame, and concern about losing [his] security clearance." He provided details of his marijuana involvement from about 1978 or 1979 to August 2000, hashish in about 1980, mescaline twice in 1979 or 1980, and cocaine from 1986 to April 1999, and admitted that his family (parents and siblings), friends, and professional associates were unaware of his illegal drug use since 1991. Applicant expressed his intent to abstain from all alcohol and illegal drugs in the future, to obtain a sponsor and enter a 12-step program, and to participate in his church and focus on his family. On December 8, 2000, Applicant began an affiliation with self-help recovery groups (Alcoholics Anonymous and Narcotics Anonymous).

In Fall 2000, Applicant's son was diagnosed with attention deficit hyperactivity disorder (ADHD). Applicant recognized some of the symptoms of the disorder in himself, so at the urging of his spouse, agreed to neuropsychological testing. In early April 2001, he was evaluated by a licensed psychologist with experience in providing diagnostic and treatment services to children, families and adults dealing with attention deficit disorder. Applicant was found to have mild deficits in attentional functioning for visual processes and moderate deficits in auditory attention. In early June 2001, Applicant was prescribed Wellbutrin, Clonidine, and Seroquel medications for his neurobiological condition. He returned to the clinic thereafter for adjustments to his medications as needed.

Having set for himself a very high standard of personal integrity and honesty consistent with his past service as a U.S. Marine, Applicant carries a great deal of shame and guilt because of his use of illegal drugs and failure to be completely forthright about that involvement. Feelings of anxiety worsened in Fall 2004 as Applicant faced the potential loss of his clearance and job because of his past drug use and lack of candor. In December 2004, he presented for psychological counseling with a licensed psychologist. In this mental health professional's opinion, Applicant's anxiety was caused by his failure to live up to his "incredibly high sense of morality." Applicant needed to accept his inadequacies, reduce unrealistic expectations, develop useful adaptive mechanisms, and realize he did not always have to be perfect in all aspects of life. Further counseling was recommended to address these issues, which were not seen as any threat to his work performance or fulfillment of family duties. Applicant began weekly hour-long treatment sessions with this psychologist.

In February 2005, the psychiatric nurse specialist who directs the clinic where Applicant has had his medication monitored since April 2001, opined that individuals who suffer from undiagnosed and untreated ADHD "tend to self medicate with recreational substance as a way to establish focused attention, concentration, and task completion." Applicant's guilt and shame over the use of illegal drugs, coupled with the omission of his history of substance abuse, "had exacerbated his anxiety to a level that, in the moment, he used/relapsed." In her professional opinion, Applicant was committed to using the tools he had learned to remain clean and sober in order to continue his employment as well as his own high standards of morality and personal and professional integrity, and she gave him an excellent prognosis.

As of early March 2005, Applicant was taking Wellbutrin for his attention deficits/anxiety and attending an AA or NA meeting on a weekly basis, in addition to his individual counseling sessions with the psychologist. When he initially got involved in recovery groups in 1991, Applicant viewed the twelve-step process as an event to be completed. He now recognizes it as a way to live, "to enrich," his life and is actively involved in step work with the assistance of a sponsor, who has 20 years of sobriety. Applicant has no intent to use any illegal drugs or use alcohol in the future and was not associating with those individuals with whom he used illegal drugs in the past. While his spouse is aware of his drug abuse history, he has not shared his drug abuse history with his parents or siblings or explained why he no longer drinks, but he also does not have a close relationship with them.

Applicant has assumed leadership roles at work and in his local community. As a sergeant on the guard force at work, he is responsible for physical security for the plant (access control, emergency response) and has helped to train many of the younger plant protection officers. Applicant has earned the respect of his supervisors and coworkers. Several coworkers, who have known him for the past 15 to 19 years, consider Applicant to be honorable, trustworthy, reliable, a valuable contributor. Because of his leadership skills, diligence and high standards, Applicant was elected president of his local union of plant protection employees where he is responsible for union funds. He serves as the director of the plant's employees activities association and as a board member of its golf league. He is a steering committee member in his company's participation in an OSHA voluntary health and safety program and a charter member of an emergency response review team at the plant. In his local community, Applicant serves as a town meeting member (an elected position). Appointed by the town's board of selectmen to the earth removal advisory committee, Applicant is also involved in monitoring operations of a quarry in the town. He coaches his son's basketball team and has coached his daughter's soccer team. From 1996 to 1999, Applicant served as adjutant in a nonprofit organization of Marine Corps veterans.

POLICIES

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has "the authority to . . . control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to occupy a position . . . that will give that person access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865, *Safeguarding Classified Information within Industry* § 2 (Feb. 20, 1960). Eligibility for a security clearance is predicated upon the applicant meeting the security guidelines contained in the Directive. An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative process factors listed in ¶ 6.3 of the Directive. The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of the applicant. *See* Exec. Or. 10865 § 7. It is merely an indication that the applicant has not met the strict guidelines the President and the Secretary of

Defense have established for issuing a clearance.

After a thorough evaluation of the record evidence, the following adjudicative guidelines are pertinent to an evaluation of Applicant's security suitability:

Drug Involvement. Improper or illegal involvement with drugs raises questions regarding an individual's willingness or ability to protect classified information. Drug abuse or dependence may impair social or occupational functioning, increasing the risk of an unauthorized disclosure of classified information. (E2.A8.1.1.)

Personal Conduct. 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. (E2.A5.1.1.)

CONCLUSIONS

Having considered the evidence of record in light of the appropriate legal precepts and factors, and having assessed the credibility of Applicant, I conclude the government established its case with respect to Guideline H, drug involvement, and Guideline E, personal conduct. While I conclude Applicant's drug abuse is safely in the past, he has failed to meet his burden with respect to overcoming the Guideline E concerns.

Applicant used marijuana regularly (about three times per week) from 1978 or 1979 until September 1981. Although not alleged, he experimented with mescaline and hashish as well in 1979/80. After four years of distinguished service in the Marines, Applicant returned home to his old friends in September 1985. By 1986, he had relapsed into sporadic marijuana use and had begun using cocaine, while he held a security clearance. Between 1989 and May 1991, he spent as much as \$400 a month on cocaine and used it as often as four times weekly on occasion. Following completion of a 28-day drug treatment program, Applicant used cocaine about eight times, to April 1999, and marijuana about three times, to late July/August 2000. Disqualifying conditions E2.A8.1.2.1. *Any drug abuse*, and E2.A8.1.2.2. *Illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution*, of Guideline H must be considered in determining Applicant's security suitability. Although his involvement with illegal drugs was sporadic after 1991, he bears a heavy burden of overcoming the serious concerns for his judgment caused by his continued abuse of illegal drugs after he completed a 28-day drug rehabilitation program and in violation of the government's trust. Whatever stress Applicant felt in 1996 when he was building a new home and his father-in-law was ill, it does not justify or excuse his use of cocaine. Applicant's most recent purchases and uses of cocaine were in the context of recreational activities, in 1998 while en route to a softball outing and in April 1999 at a golf outing.

Applicant submits in mitigation his abstinence from any illicit drug since late July/early August 2000. Specific mitigating conditions under the Directive are: *The drug involvement was not recent* (MC E2.A1.3.1.); *The drug involvement was an isolated or aberrational event* (MC E2.A8.1.3.2.); *A demonstrated intent not to abuse any drugs in the future* (MC E2.A8.1.3.3.); or *Satisfactory completion of a prescribed drug treatment program, including rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a credentialed medical professional* (MC E2.A8.1.3.4.). There is no evidence Applicant has used any illicit drug in the last four years. While MC E2.A8.1.3.1. applies in the absence of any recent involvement, Applicant's efforts to address his neurobiological issues and his ongoing participation in twelve-step recovery programs (AA and NA) provide greater assurance of future abstinence. He has been maintained on psychotropic medications (currently Wellbutrin) since April 2001 to alleviate the anxiety that on occasion led him to self-mediate with illegal substances in the past. In addition, he is undergoing weekly counseling with a licensed psychologist to deal with the unrealistic expectations he set for himself and the anxiety resulting when he failed to live up to his high standards. In contrast to his initial exposure to AA/NA in 1991, Applicant shows a sustained, genuine commitment to the twelve-step recovery process and an understanding of the program. He has the support of his sponsor, who has 20 years of sobriety, and of his spouse. Concerns about potential relapse around old friends are eliminated by his termination of his associations with those individuals with whom he used illegal drugs in the past. Although his illegal drug use is especially egregious because it was in violation of the government's trust, MC E2.A8.1.3.3. applies in his favor. SOR ¶¶ 1.a., 1.b., 1.c., and 1.d. are resolved for Applicant as there is little likelihood, if any, of recurrence.

Applicant's efforts to conceal his post-1991 drug involvement raise personal conduct concerns independent of whether there is a risk of future drug abuse. Applicant deliberately misrepresented his illegal drug use on his November 1999 SF 86 when he falsely denied any illegal drug use or purchase within the preceding seven years. He disclosed he used cocaine while in a sensitive position, but reported his involvement only from January 1990 to May 1991 at "unknown" frequency. DC E2.A5.1.2.2., *the deliberate omission, concealment, or falsification of relevant and material facts from any personnel security questionnaire, personal history statement, or similar forms used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*, applies.

Applicant compounded the concerns for his judgment, trustworthiness, and reliability, when he deliberately minimized his drug use in a signed, sworn statement of July 2000. Although Applicant detailed his marijuana use from 1979 to 1980 and his cocaine use and purchase from January 1990 to May 1991, he did not disclose his cocaine use from 1986 to 1990, or his use of marijuana and cocaine after he completed the 28-day inpatient treatment program. Calculated omissions, like deliberate false statements, have a tendency to mislead. Applicant made statements crafted to impress that his inpatient treatment had been successful and his drug use had stopped ("I stopped using [marijuana] because I wanted to join the USMC." "I stopped using cocaine because I realized I was acting immature and I had internal moral conflicts. Also, I had a budding relationship with my future wife who was the catalyst with the [sic] my seeking of rehabilitation and treatment for cocaine use."). DC E2.A5.1.2.3., *Deliberately providing false or misleading information concerning relevant and material matters to an investigator, security official, competent medical authority, or other official representative in connection with a personnel security or trustworthiness determination*, and DC E2.A5.1.2.5. *A pattern of dishonesty or rule violations, including violation of any written or recorded agreement made between the individual and the agency*, must also be considered. Although not alleged by the government, Applicant had apparently not disclosed his illegal drug involvement on his previous applications for clearance. When interviewed by the DSS agent after his polygraph examination in December 2000, Applicant admitted, "During my entire employment, I have knowingly withheld the truth about my involvement with illegal drugs on all personnel security questionnaires (PSQ) I have submitted." (Ex. 3) Applicant repeatedly placed his personal interest in keeping his clearance and job ahead of his obligation of full disclosure.

Furthermore, given Applicant's positions of leadership in his community as a town meeting member and youth coach, and at work as the union president, illicit drug involvement is the type of activity, if known, that could affect his reputation. When interviewed in December 2000, Applicant admitted to the DSS agent that his family, friends and professional associates were not aware that he used drugs after 1991. DC E2.A5.1.2.4. *Personal conduct or concealment of information that increases an individual's vulnerability to coercion, exploitation, or duress, such as engaging in activities which, if known, may affect the person's personal, professional, or community standing or render the person susceptible to blackmail*, applies.

Security clearance determinations involve a careful weighing of a number of variables known as the whole person concept. (See E2.2.1.) To Applicant's credit, he was candid with the Department of Defense about his drug use in his post-polygraph interview in December 2000. As the DOHA Appeal Board has repeatedly articulated, mitigating condition E2.A5.1.3.2. *The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*, is properly applied where the falsification is old and the applicant subsequently provides correct information about matters not covered by the old falsification.⁽⁵⁾ In this situation, where Applicant corrected his prior misrepresentation concerning the extent of his illegal drug involvement, MC E2.A5.1.3.3. *The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*, is potentially applicable. Setting aside the issue of his earlier security applications, Applicant was provided the opportunity to correct his November 1999 SF 86 falsifications and report his recent drug use when he was interviewed in July 2000. Again, he chose to reveal only his most dated drug involvement. His subsequent correction is not considered prompt under the circumstances. Nor is it clear that his December 2000 rectification was without prompting. It was during a post-polygraph interview, which suggests that the information was not volunteered upfront. Applicant confirmed as much in his answer to the SOR:

Upon meeting with another agent, I again failed to tell the truth, and did not reply honestly when asked about my use after 1991. I was scared. I was ashamed and embarrassed. I broke down emotionally, and provided the Special Agent the truth.

MC E2.A5.1.3.3. does not apply. Because of his attention deficit disorder, Applicant may well have experienced heightened stress and anxiety over the security application and interview process. Yet, Applicant has been evaluated as having only a mild deficit when it comes to visual attention. His attention deficits did not prevent him from performing his duties at work or understanding the questions on his SF 86. Even though he had not yet started his counseling for his anxiety, his neurobiological condition is not extenuating of his deliberate misrepresentations.

Since security clearance determinations are not designed to punish applicants for past wrongdoings but instead involve an assessment of future security risk, the salient issue is whether Applicant can be counted on to fulfill his obligation of full candor in the future. While he no longer associates with those persons or pursues those activities (except golf) involved in his past drug use (see MC E2.A5.1.3.7. *Association with persons involved in criminal activities has ceased*), the concerns presented by his repeated misrepresentations are not adequately answered by his cessation of the drug involvement. Consistent with the overall common sense determination required under the Directive, Applicant deserves

significant credit for his contributions to his employer and to his community, and he has exhibited to his friends and coworkers high integrity, reliability, discipline and trustworthiness. Yet, only one of the several coworkers and friends who submitted favorable references on his behalf mentioned that Applicant had "made mistakes in his life." (Ex. G) One coworker described Applicant as having a "rigid adherence to a code of honesty." (Ex. K) This raises doubt as to whether those persons attesting to his character (individuals with whom Applicant can reasonably be expected to have a close work or personal relationship) are aware of his past drug use and/or lack of candor with the government. Uncorroborated testimony that people with whom he works know he used drugs after 1991 is not enough to meet his burden of showing he is no longer concealing conduct, which if known, would have a tendency to affect his standing at work and in the community. He has admitted that his parents and siblings are unaware of his past drug use or the reasons why he no longer consumes alcohol. While he does not have a close relationship with these family members, any act of concealment raises concern as to whether he can be counted on to fulfill his obligation of candor. Applicant has expressed remorse for his past minimization of his drug use, but it is not enough to overcome the Guideline E concerns caused by his repeated falsifications. SOR ¶¶ 2.a., 2.b., 2.c., 2.d., and 2.e. are 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 H: FOR THE APPLICANT

Subparagraph 1.a.: For the Applicant

Subparagraph 1.b.: For the Applicant

Subparagraph 1.c.: For the Applicant

Subparagraph 1.d.: For the Applicant

Paragraph 2. Guideline E: AGAINST THE APPLICANT

Subparagraph 2.a.: Against the Applicant

Subparagraph 2.b.: Against the Applicant

Subparagraph 2.c.: Against the Applicant

Subparagraph 2.d.: Against the Applicant

Subparagraph 2.e.: 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. Clearance is denied.

Elizabeth M. Matchinski

Administrative Judge

1. The SOR was issued under the authority of 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. There is conflicting evidence about Applicant's use of marijuana in August 2000. On December 7, 2000, he told a DSS agent that his last use was in August 2000 after a golf tournament. In response to the SOR, Applicant indicated his last contact with marijuana was in July/August 2000 after a softball game when he was agitated following an argument and took a "hit" off a marijuana cigarette without realizing it or how he came to be in possession. At his hearing, Applicant reiterated it was at a softball game; that the agent may have misinterpreted or he misspoke.
3. At his hearing, Applicant testified, "I tried to be honest. I tried to get to a point of disclosure or for lack of a better word, getting, getting to a point of, of being naked, and I spent a lifetime building up defenses that it was very difficult to get to that point." (Tr. 47)
4. Applicant testified that he went into the interview with a certain intent but as a result of his anxiety, he ended up "catastrophizing" (sic) the situation. While he described his marijuana use before the Marine Corps to the best of his recollection, he "minimized and denied and projected." (Tr. 48)
5. *See e.g.*, ISCR Case No. 02-09389 (App. Bd. December 29, 2004), citing ISCR Case No. 99-0557 at 4 (App. Bd., July 10, 2000).