

KEYWORD: Alcohol

DIGEST: Applicant is a 28-year-old employee of a defense contractor. He has a history of excessive consumption of alcoholic beverages. After a series of alcohol-related incidents he entered a substance abuse rehabilitation program, and was diagnosed as alcohol dependent. Applicant successfully completed the program, but thereafter continued to consume alcohol. Recently, he decided to abstain from alcohol. He was later diagnosed as being alcohol dependent, in remission. Considering the seriousness of his problem with alcohol, the recency of his decision to abstain from alcohol in the future, and his election not to continue attending a support group, Applicant has not mitigated the security concerns arising from his history of excessive consumption of alcohol. Clearance is denied.

CASENO: 03-01923.h1

DATE: 09/09/2004

DATE: September 9, 2004

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-01923

DECISION OF ADMINISTRATIVE JUDGE

MICHAEL J. BRESLIN

APPEARANCES

FOR GOVERNMENT

Edward W. Loughran, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 28-year-old employee of a defense contractor. He has a history of excessive consumption of alcoholic beverages. After a series of alcohol-related incidents he entered a substance abuse rehabilitation program, and was diagnosed as alcohol dependent. Applicant successfully completed the program, but thereafter continued to consume alcohol. Recently, he decided to abstain from alcohol. He was later diagnosed as being alcohol dependent, in remission. Considering the seriousness of his problem with alcohol, the recency of his decision to abstain from alcohol in the future, and his election not to continue attending a support group, Applicant has not mitigated the security concerns arising from his history of excessive consumption of alcohol. Clearance is denied.

STATEMENT OF THE CASE

Applicant submitted a security clearance application on July 5, 2002, which was transmitted electronically on July 16, 2002. 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"), the Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant. On December 31, 2003, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision. The SOR alleges security concerns raised under Guideline G of the Directive, Alcohol Consumption.

Applicant answered the SOR in writing on January 26, 2004. He elected to have the matter decided on the written record in lieu of a hearing.

Department Counsel submitted the Government's case in writing on March 30, 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 April 20, 2004, but did not provide additional materials for consideration. The case was assigned to another administrative judge initially, and was reassigned to me on August 31, 2004.

FINDINGS OF FACT

Applicant admitted all the factual allegations, with explanations. Item 3, Applicant's Answer to SOR, dated January 26, 2004, at 2. 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 28 years old, and is employed by a defense contractor. Item 5, Security Clearance Application, dated July 16, 2002, at 3. He seeks a security clearance.

Applicant enlisted in the U.S. Air Force in December 1996. *Id.* at 5. He served as a computer operator and network analyst, and held a Top Secret Clearance. *Id.* at 4, 12.

In early 1999, Applicant experienced difficulties arising from excessive consumption of alcohol. He usually drank alcohol on weekends and consumed between 8 and 9 beers before feeling the effects. Item 6, Inpatient Mental Health Records, dated 4 May 1999, at 1. His excessive consumption of alcohol resulted in blackouts. *Id.* In April 1999, Applicant attempted suicide by drinking beer and taking about 30 tablets of an over-the-counter medication. *Id.* He went to the emergency room the following day, but did not report his suicide attempt. *Id.* In May 1999, Applicant became intoxicated and punched a hole in the dormitory wall, breaking his hand. *Id.* He woke up in the emergency room the next day. *Id.* In April 2000, local police arrested Applicant on suspicion of burglary. Item 7, Medical Records, dated April 19, 2000 to November 7, 2000, at 48; Item 11, FBI Identification Record, dated September 1, 2002, at 2. He was severely intoxicated when arrested. Item 7, *supra*, at 48. Civilian authorities turned Applicant over to the U.S. Air Force.

Applicant entered the U.S. Air Force's Alcohol and Drug Abuse Prevention and Treatment (ADAPT) program in April 2000. Item 3, *supra*, at 2. Applicant successfully completed the program in November 2000. *Id.*; Item 7, *supra*, at 1. A clinical social worker diagnosed Applicant as being Alcohol Dependent (in remission), under the Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision (DSM-IV-TR), 303.9. *Id.* Applicant was encouraged to continue in his abstinence relapse prevention plan after completing the program. *Id.* However, he drank alcoholic beverages again on an occasional basis beginning in December 2000. Item 3, *supra*, at 3.

Applicant separated from the U.S. Air Force in December 2000 at the expiration of his term of service. Item 5, *supra*, at 7. He received an Honorable discharge. *Id.* at 8. Thereafter, Applicant began working for a defense contractor. *Id.* at 3.

Applicant applied for a security clearance in July 2002. Item 5, *supra*, at 1. During his interview with agents from the Defense Security Service, he revealed that he drank alcohol occasionally. Item 10, Applicant's Statement, dated October 14, 2003, at 1. Applicant indicated that he intended to stop drinking alcohol at some point in the future, but that he was not then ready to do so. *Id.*

In August 2003, the Defense Office of Hearings and Appeals asked Applicant to submit to an evaluation by a credentialed medical professional. Item 9, DOHA Letter, dated August 28, 2003. The purpose of the evaluation was for the medical professional to certify whether Applicant's return to drinking alcohol would affect his ability to exercise the care, judgment, and discretion necessary to handle and protect classified information. *Id.*

Applicant submitted to an evaluation in September 2003. Item 10, *supra*, at 2. Applicant was diagnosed as Alcohol Dependent, Mild (early full remission), under DSM-IV-TR 303.9. *Id.* The assessment specifically stated that there were "no treatment recommendations," but added that "(s)obriety based support group participation would be appropriate at this time, to deal with any issues such as cravings and/or other addiction symptoms, should they arise." *Id.*

In October 2003, Applicant submitted the new evaluation to DOHA. *Id.* at 1. He also revealed that in February 2003 he made the decision never to consume alcohol again and he had abstained from alcohol since that time. *Id.* Applicant indicated that he was not then attending any regular, organized support group but would do so if needed. *Id.*

POLICIES

In Executive Order 12968, *Access to Classified Information*, § 3.1(b) (August 4, 1995), the President provided that eligibility for access to classified information shall be granted only to United States citizens "whose personal and professional history affirmatively indicates loyalty to the United States, strength of character, trustworthiness, honesty, reliability, discretion, and sound judgment, as well as freedom from conflicting allegiances and potential for coercion, and willingness and ability to abide by regulations governing the use, handling, and protection of classified information." A person granted access to classified information enters into a special relationship with the government. 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. The decision to deny an individual a security clearance is not a determination as to the loyalty of the applicant. Exec. Ord. 10865, § 7. It is merely an indication that the applicant has not met the strict guidelines the President has established for issuing a clearance.

To be eligible for a security clearance, an applicant must meet the security guidelines contained in the Directive. Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions and mitigating conditions under each guideline. The adjudicative guideline at issue in this case is:

Guideline G, Alcohol Consumption. 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. 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.

"The adjudicative process is an examination of a sufficient period of a person's life to make an affirmative determination that the person is eligible for a security clearance." Directive, ¶ E2.2.1. An administrative judge must apply the "whole person concept," and consider and carefully weigh the available, reliable information about the person. *Id.* An administrative judge should consider the following factors: (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. *Id.*

Initially, the Government must present evidence to establish controverted facts in the SOR that disqualify or may disqualify the applicant from being eligible for access to classified information. Directive, ¶ E3.1.14. Thereafter, the applicant is responsible for presenting evidence to rebut, explain, extenuate, or mitigate the facts. Directive, ¶ E3.1.15. 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 (App. Bd. Dec. 19, 2002). "Any doubt as to whether access to classified information is clearly consistent with national security will be resolved in favor of the national security." Directive, ¶ E2.2.2.

CONCLUSIONS

I considered carefully all the facts in evidence and the legal standards discussed above. I reach the following conclusions regarding the allegations in the SOR.

The Government's documentary exhibits and Applicant's admissions constitute substantial evidence of a disqualifying condition under Guideline G. Specifically, ¶ E2.A7.1.2.4 of the Directive provides that it may be disqualifying where an applicant is diagnosed as alcohol dependent "by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program." In this case, Applicant was diagnosed as alcohol dependent during the U.S. Air Force's ADAPT program. Item 7, *supra*, at 1. This diagnosis was confirmed by evaluation submitted by Applicant from the community drug and alcohol center. Item 10, *supra*, at 2. This diagnosis raises security concerns.

These security concerns can be mitigated where it is determined that the "problem occurred a number of years ago, and there is no indication of a recent problem." Directive, ¶ E2.A7.1.3.2. Applicant's problems with alcohol first surfaced in 1999. Applicant completed the ADAPT program in November 2000, but began drinking alcoholic beverages the following month. He did not decide to abstain from alcohol completely until February 2003, well after this security clearance application process began. I considered the severity of his problem with alcohol and his unwillingness to abstain from alcohol after completing the treatment program. I am not persuaded that his problem with alcohol was so long ago, or that his rehabilitation has continued long enough, for this mitigating condition to be applicable.

It may also be mitigating where an applicant demonstrates "[p]ositive changes in behavior supportive of sobriety." Directive, ¶ E2.A7.1.3.3. In this case, Applicant declares his resolution to abstain from alcohol in the future. Certainly this is a positive thing and should be encouraged. However, abstention from alcohol was a part of his ADAPT program treatment plan that he abandoned as soon as he completed the program. Applicant has not demonstrated any other behavioral changes, to include attending group support sessions as recommended by the Community Drug and Alcohol Center. I conclude this condition mitigates Applicant's security concerns only slightly.

It may also be mitigating where an individual who is diagnosed as alcohol dependent 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 of licensed social worker who is a staff member of a recognized alcohol treatment program.

Directive, ¶ E2.A7.1.3.4. In this case, Applicant was diagnosed as alcohol dependent and completed the ADAPT program, an outpatient rehabilitation program. It is not clear whether he completed aftercare requirements, because the records do not clearly state that future abstention from alcohol was required. In any event, this mitigating condition does not apply because Applicant has not participated in regular meetings of Alcoholics Anonymous or a similar organization since that time.

The SOR, ¶ 1.b, alleges Applicant consumed alcohol subsequent to a diagnosis of alcohol dependence. Under ¶ E2.A7.1.2.6 of the Directive, it may be disqualifying where there is evidence of "[c]onsumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program." The Directive defines "credentialed medical professional" as a "physician, clinical psychologist, or psychiatrist." Directive, ¶ E2.A7.1.2.3. The evidence in the record does not demonstrate that the diagnosis in question was made by a "credentialed medical professional" as defined by the Directive. Instead, the diagnosis in question was made by a licensed clinical social worker who was a staff member of an alcohol treatment program. Thus, the disqualifying condition in ¶ E2.A7.1.2.3 of the Directive does not apply. Of course, Applicant admitted consuming alcohol following his completion of the U.S. Air Force alcohol abuse treatment program. Item 10, *supra*, at 1. Even if this is not a separate disqualifying condition, it is relevant to his rehabilitative potential under the "whole person" concept.

I considered all the circumstances in light of the "whole person" concept. I conclude Applicant has not mitigated the security concerns arising from his history of excessive alcohol consumption.

FORMAL FINDINGS

My conclusions as to each allegation in the SOR are:

Paragraph 1, Guideline G: AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraph 1.b: For Applicant

Subparagraph 1.c: 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.

Michael J. Breslin

Administrative Judge