

KEYWORD: Alcohol

DIGEST: In 2002, Applicant sought professional help for his then excessive alcohol consumption. He successfully completed an intensive outpatient course of treatment and now consumes alcohol only in moderation. He has not been intoxicated since late 2002, and there are no adverse alcohol-related incidents in his background. He has mitigated the security concerns about alcohol consumption addressed under Guideline G. Clearance is granted.

CASENO: 03-14208.h1

DATE: 08/31/2005

DATE: August 31, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-14208

DECISION OF ADMINISTRATIVE JUDGE

MATTHEW E. MALONE

APPEARANCES

FOR GOVERNMENT

Erin C. Hogan, Esquire, Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

In 2002, Applicant sought professional help for his then excessive alcohol consumption. He successfully completed an intensive outpatient course of treatment and now consumes alcohol only in moderation. He has not been intoxicated since late 2002, and there are no adverse alcohol-related incidents in his background. He has mitigated the security concerns about alcohol consumption addressed under Guideline G. Clearance is granted.

STATEMENT OF THE CASE

After reviewing the results of Applicant's background investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) were unable to make a preliminary affirmative finding ⁽¹⁾ it is clearly consistent with the national interest to give Applicant a security clearance. On October 15, 2004, DOHA issued to Applicant a Statement of Reasons (SOR) alleging facts that raise security concerns addressed in the Directive under Guideline G (alcohol consumption). Applicant timely answered the SOR (Answer), and admitted (with explanation) all of the allegations therein, and he requested a hearing.

The case was assigned to me on December 22, 2004, and I convened a hearing on January 25, 2005. The parties appeared as scheduled and the government presented six exhibits, which were admitted without objection. Applicant submitted one exhibit admitted without objection (AE A), and testified in his own behalf. DOHA received the transcript (Tr) on February 2, 2005. Issuance of this decision was delayed due to an unusually large case load.

FINDINGS OF FACT

Applicant's admissions in his Answer are entered as facts. After a thorough review of the pleadings, transcript, and exhibits, I also find the following:

Applicant is a 50-year-old high school graduate with some college-level technical training, who works for a defense contractor. He requires a security clearance for his work as a logistics and training analyst in the field of ordinance disposal. Applicant and his wife were married in 1992, and they have two children. He has held his current position since November 2002. Before that, he worked from June 2000 until November 2002 for another defense contractor, the last six months in a management capacity.

During most of Applicant's employment with that previous employer, he was in a non-managerial position similar to the job he currently holds. In early 2002, he was asked to fill a management position on a large project that became increasingly demanding over the next few months. Applicant soon had to work longer hours under stressful conditions.

Applicant has used alcohol to varying degrees since he was about 18 years old. One result of the added stress he experienced at work in 2002 was a dramatic increase in his alcohol consumption. He began drinking daily after work, often drinking liquor as well as beer. For the most part he drank at home, but occasionally went out with co-workers after work making it likely he would drive home while under the influence of alcohol.

While Applicant was not involved in any adverse alcohol-related conduct at work or at home, his drinking caused him to be more irritable than usual and to withdraw from normal family activities with his wife and children. Eventually, he and his wife talked about his drinking and decided it would be a good idea for Applicant to get help with his drinking.

Applicant enrolled at his own expense in an intensive outpatient course of treatment in August 2002. The program lasted about eight weeks and included clinical assessments by a "Certified Associate Counselor, Drug and Alcohol,"⁽²⁾ and administration of medication to aid in Applicant's detoxification. Applicant saw a counselor three times each week and attended group meetings each week. Applicant also attended meetings of Alcoholics Anonymous (AA).

When Applicant completed the program, he was assessed by a counselor as alcohol dependent and given a guarded prognosis. It was also recommended he abstain from alcohol and that he continue to attend AA meetings for a few more months. Applicant attended AA meetings as recommended but eventually resumed alcohol consumption, albeit at a drastically lesser degree. Specifically, Applicant returned to his previous habit of drinking an average of two beers over a weekend, but not necessarily every weekend. The last time Applicant was intoxicated was sometime during the 2002 holiday season.

Contrary to program requirements, Applicant twice consumed alcohol while enrolled. The first consumption was unintentional in that he drank three "non-alcoholic" beers not realizing they contained some alcohol. On the other occasion, Applicant's wife and children were out of town when he was told of an interview for the job he now holds. He celebrated by drinking two or three beers at home. The fact his family was away was identified in treatment records as a

"trigger" for excess drinking. However, since late 2002, Applicant has had to travel frequently as part of his current job and there is no indication of any adverse alcohol-related conduct away from home.

It remains unclear for how long before treatment Applicant's heavy drinking had occurred. What is apparent is that at worst, Applicant drank three or four beers plus ½ pint of vodka on a nightly basis. There is no indication he has consumed anything other than beer or wine since completing treatment in September 2002. Applicant also has realized his heavy drinking was a way of dealing with stress. He is now better able to recognize stress and cope with it in a healthy, constructive way.

Applicant has excelled in his current position. His performance evaluations from both his current employer and his employer in 2002 reflect a superior, highly-qualified, and reliable employee. ⁽³⁾

POLICIES

The Directive sets forth adjudicative guidelines⁽⁴⁾ to be considered in evaluating an Applicant's suitability for access to classified information. Security clearance decisions must reflect consideration of both disqualifying and mitigating conditions under each adjudicative issue applicable to the facts and circumstances of each case. Each decision must also reflect a fair and impartial common sense consideration of the factors listed in Section 6.3 of the Directive. The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an Applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. Having considered the record evidence as a whole, I conclude the relevant adjudicative guidelines to be applied here are Guideline G (alcohol consumption).

A security clearance decision is intended to resolve whether it is clearly consistent with the national interest⁽⁵⁾ for an Applicant to either receive or continue to have access to classified information. The government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for the Applicant. Additionally, the government must be able to prove controverted facts alleged in the SOR. If the government meets its burden, it establishes that it is not clearly consistent with the national interest for the Applicant to have access to classified information. The burden then shifts to the Applicant to refute, extenuate or mitigate the government's case. Because no one has a "right" to a security clearance, the Applicant bears a heavy burden of persuasion.⁽⁶⁾ A person who has access to classified information enters into a fiduciary relationship with the government based on trust and confidence. The government, therefore, has a compelling interest in ensuring each Applicant possesses the requisite judgement, reliability and trustworthiness of one who will protect the national interests as his or her own. The "clearly consistent with the national interest" standard compels resolution of any reasonable doubt about an Applicant's suitability for access in favor of the government.⁽⁷⁾

CONCLUSIONS

The security concern about alcohol consumption, as expressed through Guideline G, is that 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.⁽⁸⁾ The government established its case under Guideline G by showing that Applicant engaged in habitually excessive alcohol consumption, probably to the point of impaired judgment. Consuming four beers and ½ pint of vodka on a nightly basis is more than sufficient to impair one's judgment. Guideline G disqualifying condition (DC) 5⁽⁹⁾ applies here. SOR ¶ 1.a alleges this conduct continued to at least April 2003; however, the record shows the heavy drinking that lead Applicant to seek help ended in August 2002. At most, Applicant was last intoxicated - that is, he had more than two beers and felt he should not drive - around December 2002.

As for Applicant's "diagnosis" as alcohol dependent, the government acknowledged that the evaluator in this instance does not equate to the "licensed clinical social worker" contemplated by DC 4.⁽¹⁰⁾ The government has further acknowledged DC 4 is not applicable here. Further, no credentialed medical professional has rendered a "diagnosis" of alcohol dependence as contemplated in DC 3.⁽¹¹⁾

By contrast, mitigating condition (MC) 2⁽¹²⁾ and MC 3⁽¹³⁾ apply here. Applicant has not consumed alcohol to excess or to the point of intoxication for over two years. Further, he took affirmative action in recognizing his drinking was causing him problems before anything untoward actually happened to him or his family. He is now able to handle stress without drinking and has left the work environment that gave rise to the causes for his abuse of alcohol. Lastly, Applicant's employment performance in both his previous and his current jobs, and the lack of any abuse of alcohol while away from home on extensive business travel further shows his past abuse of alcohol is not likely to recur. While the government also has established through its exhibits and Applicant's admissions the allegations in SOR ¶¶ 1.b, 1.c, and 1.d, I conclude Applicant has successfully mitigated any security concerns arising from those facts.

I have carefully weighed all of the evidence, and I have applied the disqualifying and mitigating conditions as listed under each applicable adjudicative guideline. A fair and commonsense assessment⁽¹⁴⁾ of the record before me shows Applicant no longer has a problem with excess alcohol consumption because he took the initiative to correct his alcohol-related behavior before actually experiencing more adverse and lasting consequences. Accordingly, I conclude the available information is more than sufficient to assuage the government's doubts about Applicant's ability to protect classified information and to exercise the requisite good judgment and discretion expected of one in whom the government entrusts its interests.

FORMAL FINDINGS

Formal findings regarding each SOR allegation as required by Directive Section E3.1.25 are as follows:

Paragraph 1, Alcohol Consumption: 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

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 the Applicant.

Matthew E. Malone

Administrative Judge

1. Required by Executive Order 10865, as amended, and by DoD Directive 5220.6 (Directive), as amended.
2. *See*, Tr., p. 12 - 13. Department Counsel acknowledged this title does not equate to the "licensed clinical social worker" identified under Guideline G disqualifying condition (DC) 4 at E2.A7.1.2.4.
3. AE A.
4. Directive, Enclosure 2.
5. *See Department of the Navy v. Egan*, 484 U.S. 518 (1988).

6. *See Egan*, 484 U.S. at 528, 531.
7. *See Egan*; Directive E2.2.2.
8. Directive, E2.A7.1.1.
9. Directive, E2.A7.1.2.5. Habitual or binge consumption of alcohol to the point of impaired judgment;
10. Directive, E2.A7.1.2.4. Evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program;
11. Directive, E2.A7.1.2.3. Diagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence;
12. Directive, E2.A7.1.3.2. The problem occurred a number of years ago and there is no indication of a recent problem;
13. Directive, E2.A7.1.3.3. Positive changes in behavior supportive of sobriety;
14. Directive, E2.2.3.