

KEYWORD: Drugs; Alcohol; Criminal Conduct; Personal Conduct

DIGEST: Applicant is 39 years old and has worked for different federal contractors on and off since 1998. He has held a secret security clearance since 1998. Applicant abused drugs and alcohol from 1977 to 2003, including while he had access to classified material. He failed to disclose the extent of his drug and alcohol abuse on his security clearance application renewal and in a sworn statement. Applicant has a criminal history relating to his abuse. Although he has been sober for two years, he has failed to mitigate the security concerns under Guidelines H, G, J and E. Clearance is denied.

CASE NO: 03-17483.h1

DATE: 05/12/2006

DATE: May 12, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-17483

DECISION OF ADMINISTRATIVE JUDGE

CAROL G. RICCIARDELLO

APPEARANCES

FOR GOVERNMENT

Edward W. Loughran, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is 39 years old and has worked for different federal contractors on and off since 1998. He has held a secret security clearance since 1998. Applicant abused drugs and alcohol from 1977 to 2003, including while he had access to classified material. He failed to disclose the extent of his drug and alcohol abuse on his security clearance application renewal and in a sworn statement. Applicant has a criminal history relating to his abuse. Although he has been sober for two years, he has failed to mitigate the security concerns under Guidelines H, G, J and E. Clearance is denied.

STATEMENT OF THE CASE

On November 2, 2005, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) stating it was unable to find that it is clearly consistent with the national interest to grant or continue a security clearance. [\(1\)](#) The SOR, which is in essence the administrative complaint, alleged security concerns under Guideline H (drug involvement), Guideline G (alcohol consumption), Guideline J (criminal conduct), and Guideline E (personal conduct).

In a sworn statement, dated November 7, 2005, Applicant responded to the SOR allegations and requested a hearing. In his SOR response, Applicant admitted all of the allegations under Guideline H except ¶¶ 1.c, 1.d, 1.e, 1.g, 1.s and 1.t. Applicant admitted to the substance of allegations in those paragraphs, but disputed some of the dates. He admitted all of the allegations under Guideline G ¶¶ 2.a through 2.i, Guideline J ¶¶ 3.a through 3.s. Under Guideline E he admitted ¶ 4.a, but again disputed some of the dates. He admitted ¶ 4.b, but disputed the dates in ¶ 4.b (3) and denied ¶ 4.b (4) e and f. The case was assigned to me on March 2, 2006. A notice of hearing was issued on March 27, 2006, scheduling the hearing for April 11, 2006. The hearing was conducted as scheduled. The government submitted 36 exhibits that were marked as Government Exhibits (GE) 1-36. The exhibits were admitted into the record without objection. Applicant submitted nine exhibits that were marked as Applicant's exhibits (AE) A-I and were admitted into the record without objection. Applicant testified on his own behalf, and had one witness testify. DOHA received the hearing transcript (Tr.) on April 21, 2006.

PROCEDURAL ISSUES

Department Counsel moved to amend the SOR by deleting from ¶¶ 1.s and 1.t the words "amphetamine to at least 2001." The Applicant did not object and the motion was granted.

FINDINGS OF FACT

Applicant's admissions to the allegations in the SOR, are incorporated herein. In addition, after a thorough and careful review of the pleadings, exhibits, and testimony, I make the following findings of fact:

Applicant is 39 years old and works as an electrical engineer for a federal contractor. Applicant has worked for other federal contractors in the past and has held a secret security clearance since 1998. Applicant is twice divorced and has four children, for whom he pays child support.

Applicant used drugs from 1977 to at least January 2003. He used a variety of drugs during different periods of his life as reflected and admitted by Applicant in SOR ¶¶ 1.a through 1.h, except 1.f. He used marijuana, amphetamines, methamphetamine (both intravenously, orally, and by smoking), cocaine (to include crack cocaine), LSD, the prescription drug Oxycontin, PCP (one time in 1983), and quaaludes. Some drugs he used more frequently than others and some for different lengths of time, while others he may have used for a shorter period of time. He last used cocaine (including crack cocaine) and LSD in 2001. He last used methamphetamines in 2003. Applicant also consumed alcohol daily, at times to excess and to the point of intoxication, from 1977 to December 2002.

Applicant was first arrested on October 27, 1981, and charged with Petty Larceny. He received a judicial reprimand. Applicant was arrested on May 4, 1985, and charged with (1) Possession of a Controlled Substance, a felony, (2) Contributing to the Delinquency of a Minor, and (3) Driving on a Suspended Driver's License. No information was provided as to the disposition of these charges. He was arrested on June 30, 1985, for Failure to Appear. He was arrested again on August 18, 1985, and charged with (1) Possession of a Controlled Substance-Marijuana, a felony, (2) Driving on a Suspended License, and (3) Operating Vehicle without Insurance. He pled guilty to the amended charge of misdemeanor possession of controlled substance and was fined \$250. He was arrested On November 17, 1986, for Failure to Appear. It is unclear which charge this pertains to or its disposition.

On June 26, 1987, Applicant was charged with Obstructing a Police Officer. On July 10, 1987, he was charged with three counts of Burglary, a felony. He pled guilty and was sentenced to four years in prison, suspended, probation not to exceed five years, with conditions to include that he pay \$1,951 in restitution, participate in a drug program, and pay

\$150 fine. Applicant requested a pardon on his burglary conviction in October 1997. His application to the court stated:

By way of explanation rather than excuse, I can tell this Board that the burglaries I committed arose from my need for cocaine. My arrest and incarceration in ...Detention Center forced me to face my addiction. With the help of the ... Program, I was able to understand that using cocaine was not the answer to my problems. Since drug rehabilitation, I have been able to accomplish many things of which I am proud.

Applicant admitted that from 1994 to 1998 while attending college and during the summers he would use drugs. He admitted that sometimes he could stop and start drugs intermittently.

From August 24, 1987 through June 18, 2005, Applicant was arrested and/or cited, and/or charged and convicted twelve more times (including two times that were previously addressed). The charges ranged from disorderly conduct; failure of ex-felon to notify of a change of address; obstructing a police officer; immodest behavior; assault; criminal damage; threats and intimidation; trespassing, and cruel mistreatment of animals. The last charged occurred when Applicant duck taped his dog's mouth closed because he "was extremely angry," ⁽²⁾ intoxicated and irrational. He admitted to police that he had done it once before. ⁽³⁾ At the hearing he denied he made the statement. ⁽⁴⁾

Applicant was arrested on December 20, 2001, and charged with (1) Driving or in physical control of a motor vehicle while under the influence of intoxicating liquor and/or drugs (DUI), (2) Driving with an illegal drug or metabolite in the body, (3) Possession of an open container of liquor, (4) Unsafe lane usage, and (5) Headlights required at night. He had consumed alcohol prior to his arrest and the toxicology drug analysis revealed he had marijuana, methamphetamine, Oxazepam, Tamaxepam, Alprazolam, Hydroxyalprazolam, Oxycodone and Oxmorpone in his system. He pled guilty to DUI and was sentenced to serve one day in jail, attend substance abuse classes, and pay fines and court cost of approximately \$478. The remaining charges were dismissed.

Applicant has received substance abuse treatment, to include inpatient treatment, from August 25, 1987 to about August 14, 1989. He received psychiatric evaluation on May 10, 2000 and was diagnosed, in part, with polysubstance abuse. He received treatment from November 9, 2000 to November 15, 2000, and was diagnosed, in part, with polysubstance dependence by a medical doctor. ⁽⁵⁾ He refused to comply with the drug treatment program prescribed by medical professionals and he terminated treatment against their advice. ⁽⁶⁾ He received another assessment on November 15, 2000, and was diagnosed, in part, with amphetamine dependence. He received treatment, from January 2003 to at least February 2003, and was again diagnosed, in part, for polysubstance abuse.

Applicant reported to his place of employment under the influence of amphetamines on October 4, 2000. He had been using methamphetamines for 3-4 days and showed up for work paranoid and delusional. ⁽⁷⁾ He was sent to the hospital. He was placed on a leave of absence from work until November 6, 2000. Applicant was eventually terminated from

employment for poor performance, but he admits it was due to his drug abuse. Applicant admits he had gone to work at least a dozen times high on alcohol and/or drugs and while holding a security clearance.⁽⁸⁾ Applicant worked for several companies after being terminated from his previous employment. Each company had a drug policy that he was aware of. His new employers were unaware of his past drug and alcohol problems. He admits he violated his new employers' drug policies and to lying about his drug and alcohol abuse because he was in fear of losing his job and being unable to support his family.⁽⁹⁾

Applicant continued to use marijuana and methamphetamine to at least 2003, cocaine until 2002, and abused the prescription drugs Oxycontin in 2001. He signed a sworn statement on July 20, 1998, that was presented to an authorized investigator of the Department of Defense, stating he did not intend to use drugs illegally in the future.⁽¹⁰⁾ This statement was false as Applicant continued to abuse drugs. Applicant signed another sworn statement regarding the Department of Defense Policy Concerning Use of Drugs on December 15, 1998 stating he would not use any narcotic, dangerous drug or controlled substance in the future.⁽¹¹⁾ Applicant was using drugs at this time and continued to use illegally controlled substances while he had a Department of Defense Industrial Security Clearance that was issued on December 22, 1998. Because of the nature of his job, Applicant had access to classified material during this time.

Applicant consumed alcohol daily, at times to excess and to the point of intoxication, from about 1977 to at least December 2002. He was arrested on October 2, 2000 and charged with (1) Consumption of Alcohol in Public, and (2) Disorderly Conduct. He was found guilty of Count (1) and fined approximately \$50.

In December 2000, Applicant received alcohol-related treatment sponsored by his employer. He was terminated from his employment in January 2002, after reporting to work under the influence of alcohol.

He was arrested on December 27, 2001, and charged with Disorderly Conduct. He had consumed alcohol prior to his arrest. He pled guilty to an amended charge of Unreasonable Noise and was sentenced to 24 months probation and \$3,879 in fines and court costs.

Applicant was arrested on June 18, 2005 and charged with assault-domestic violence. Applicant claimed his girlfriend was acting irrationally and he called the police. The charge was later dismissed.

Applicant falsified the security clearance application (SCA) he executed on January 22, 2003, specifically Questions 27 and 28. Question 27 asked if Applicant had illegally used a controlled substance in the past seven years. He answered yes, but minimized the extent of his drug abuse and listed that he only used Oxycontin and marijuana once each in December 2001, amphetamines three times between February 1998 and December 2001, and LSD once in 1998. Question 28 asked if Applicant had used a controlled substance while possessing a security clearance. He admitted he did, but again deliberately minimized the extent of his drug abuse. He only admitted to using Oxycontin, marijuana, and

amphetamines each once in December 2001, when in fact he was using marijuana and methamphetamine from December 1998 to at least 2003, and had frequently used cocaine up to 2001, and had used LSD and PCP at least once.

Applicant made a sworn statement and signed it under oath, and presented it to an authorized investigator for the Department of Defense on May 21, 2003. In that statement he stated he had not used marijuana after December 2001, when in fact he had used it up to at least January 2003. He stated he used methamphetamine once in December 2001, when in fact he used it from 1978 to at least 2003. In addition, he stated that other than amphetamines, marijuana, methamphetamines, and a one time abuse of the prescription drug Oxycontin, he had not used any other illegal drugs, including cocaine, which was a deliberate lie. He deliberately failed to disclose that he had used cocaine from 1981 to at least 2002, and LSD at least one time. Applicant admitted he left out everything in this statement that he had not been caught for. ⁽¹²⁾ Applicant admitted he used drugs even after providing the May 21, 2003, statement to the investigator. ⁽¹³⁾

Applicant attends Alcoholics Anonymous (AA) and is on the 12 step program. He is on step 9 which is to make amends. Applicant provided a document from a medical doctor who practices addiction medicine and served as his professional monitor during his post treatment supervision from January 12, 2004 to July 12, 2004. Applicant completed the chemical dependency program on December 23, 2003. Applicant received random drug tests, relapse prevention group therapy, documented 12 step meeting attendance and regular progress evaluations. His urinalysis tests were all negative for alcohol and drugs. He was reevaluated on April 4, 2006, and his doctor concluded that Applicant continues to have a strong recovery program, actively participates in AA and has maintained sobriety since completing his program. ⁽¹⁴⁾ His prognosis for ongoing successful recovery is excellent and his chemical dependence is in full sustain remission. ⁽¹⁵⁾ Another doctor concluded the same prognosis provided Applicant maintains participation in his program of recovery. ⁽¹⁶⁾ Applicant received accolades from his employer for his outstanding work performance and he consistently exceeds their expectations. ⁽¹⁷⁾ Since becoming sober, Applicant has regained joint custody of his children. ⁽¹⁸⁾ Applicant provided character letters that attest to him being actively involved in AA and how he has changed his life. ⁽¹⁹⁾

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating a person's eligibility to hold a security clearance. Included in the guidelines are disqualifying conditions (DC) and mitigating conditions (MC) applicable to each specific guideline. Additionally, each security clearance decision must be a fair and impartial commonsense decision based on the relevant and material facts and circumstances, the whole-person concept, along with the factors listed in the Directive. Specifically these are: (1) the nature and seriousness of the conduct and surrounding circumstances; (2) the frequency and recency of the conduct; (3) the age of the applicant; (4) the motivation of the applicant, and the extent to which the conduct was negligent, willful, voluntary, or undertaken with knowledge of the consequences; (5) the absence or presence of rehabilitation; and (6) the probability that the circumstances or conduct will continue or recur in the future. Although the presence or absence of a particular condition or factor for or against

clearance is not outcome determinative, the adjudicative guidelines should be followed whenever a case can be measured against this policy guidance.

The sole purpose of a security clearance determination is to decide if it is clearly consistent with the national interest to grant or continue a security clearance for an applicant.⁽²⁰⁾ The government has the burden of proving controverted facts.⁽²¹⁾ The burden of proof is something less than a preponderance of evidence.⁽²²⁾ Once the government has met its burden, the burden shifts to an applicant to present evidence of refutation, extenuation, or mitigation to overcome the case against him.⁽²³⁾ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.⁽²⁴⁾

No one has a right to a security clearance⁽²⁵⁾ and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."⁽²⁶⁾ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.⁽²⁷⁾ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.⁽²⁸⁾ 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.

Based upon consideration of the evidence, I find the following adjudicative guidelines most pertinent to the evaluation of the facts in this case:

Guideline H-Drug Involvement is a security concern because 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.

Guideline G-Alcohol Consumption-a security risk may exist because 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.

Guideline J-Criminal Conduct is a security concern because a history or pattern of criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. Willingness to abide by rules is an essential qualification for eligibility for access to the nation's secrets. A history of illegal behavior indicates an individual may be inclined to break, disregard, or fail to comply with regulations, practices, or procedures concerning safeguarding and handling classified information.

Guideline E-Personal Conduct is a security concern when an individual's conduct involves questionable judgment, untrustworthiness, unreliability, lack of candor, dishonesty, or unwillingness to comply with rules and regulations that could indicate that the person may not properly safeguard classified information.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guidelines are set forth and discussed in the conclusions below.

CONCLUSIONS

I have carefully considered all the facts in evidence and the legal standards. The government has established a *prima facie* case for disqualification under Guidelines H, G, J and E.

Based on all the evidence, Drug Involvement Disqualifying Condition (DI DC) E2.A8.1.2.1 (*Any drug abuse*⁽²⁹⁾), DI DC E2.A8.1.2.3 (*Diagnosis by a credentialed medical professional (e.g. physician, clinical psychologist, or psychiatrist) of drug abuse or drug dependence*), and DI DC E2.A8.1.2.5 (*Failure to successfully complete a drug treatment program prescribed by a credentialed medical professional*) apply. Applicant used marijuana, cocaine (to include crack cocaine) amphetamines, methamphetamines, LSD, PCP, quaaludes, and Oxycontin with varying frequency and at various times depending on the drug, from 1977 through 2003. He was diagnosed with polysubstance dependence and had a treatment program prescribed by a medical professional that he failed to complete.

I considered all the mitigating conditions and especially considered Drug Involvement Mitigating Condition (DI MC) E2.A8.1.3.1 (*The drug involvement was not recent*); DI MC E2.A8.1.3.2 (*The drug involvement was an isolated or aberrational event*), DI MC E2.A8.1.3.3 (*A demonstrated intent not to abuse any drugs in the future*) and DI MC E2.A8.1.3.4 (*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*). Applicant's past drug use was rampant and therefore not isolated or aberrational. DC MC E2.A8.1.2 does not apply. Applicant's last drug use was sometime before December 2003, when he entered into a treatment program. He apparently has been drug and alcohol free since committing to the treatment program and received a favorable prognosis from his doctor. I find DI MC E2.A8.1.3.4 applies. Applicant has regularly and frequently used some type of illegal drug since 1977. He has attended treatment programs and attempted sobriety in the past and has failed. This time may truly be a breakthrough for Applicant. He attests to being committed to not using drugs in the future and so far it appears that he has abstained. However, it is still much too early in Applicant's recovery to conclude that he is no longer a security risk due to his drug involvement. He readily admits to repeatedly lying about his alcohol and drug abuse. He admits that in the past he used drugs while he had access to classified material, an important trust that he repeatedly violated. I find that although Applicant has made strides in his recovery, the past drug use is still too recent and based on

his inconsistent and sporadic treatment history, there needs to be a longer recovery period to ensure his commitment and success recovery is long-term and he is not a security risk. DI MC E2.A8.1.3.1 does not apply. Applicant has failed to mitigate the drug involvement concern under Guideline H.

Based on all the evidence, I considered all the disqualifying conditions and especially considered Alcohol Consumption Disqualifying Condition (AC DC) E2.A7.1.2.1 (*Alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, or other criminal incidents related to alcohol use*), and AC DC E2.A7.1.2.2 (*Alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition, or drinking on the job.*) and conclude both apply. Applicant had alcohol-related arrests and admitted going to work at least a dozen time while intoxicated.

I have considered all the mitigating conditions and especially considered Alcohol Consumption Mitigating Condition (AC MC) E2.A7.1.3.1 (*The alcohol-related incidents do not indicate a pattern*), 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.A7.1.3.3 (*Positive changes in behavior supportive of sobriety*). I conclude that AC MC E2.A7.1.3.2 and AC MC E2.A7.1.3.3 apply, but based on the reasons and analysis previously stated under Guideline H, I find at this time there is insufficient evidence to conclude Applicant is not a security risk due to his past behavior and a longer period of time is needed to evaluate his long-term commitment to a successful recovery. Therefore, I find he has failed to mitigate the alcohol consumption security concern under Guideline G.

Based on all the evidence, Criminal Conduct Disqualifying Condition (CC DC) E2.A10.1.2.1 (*Allegations or admissions of criminal conduct, regardless of whether the person was formally charged*), and CC DC E2.A10.1.2.2 (*A single serious crime or multiple lesser offenses*) both apply.

Applicant has a significant history of arrests, charges and convictions, both felony and misdemeanor.

I have considered all the mitigating conditions and especially considered Criminal Conduct Mitigating Condition (CC MC) E2.A10.1.3.1 (*The criminal behavior was not recent*), CC MC E2.A10.1.3.2 (*The crime was an isolated incident*), CC MC E2.A10.1.3.3. (*The person was pressured or coerced into committing the act and those pressures are no longer present in that person's life*), CC MC E2.A10.1.3.4 (*The person did not voluntarily commit the act and/or the factors leading to the violation are not likely to recur*), and CC MC E2.A10.1.3.6 (*There is clear evidence of successful rehabilitation*), and conclude none apply. Applicant's last arrest was in 2005 and the charge was dismissed. That charge is given little weight, however prior to then he was arrested in 2001. Due to the number of arrests/charges and convictions the crimes were not isolated. CC MC E2.A10.1.3.2 does not apply. It has been approximately 5 years since he was arrested and I find his criminal behavior is not recent. CC MC E2.A10.1.3.1 applies. There is no evidence Applicant was pressured or coerced in committing the acts or that they were not voluntary., CC MC E2.A10.1.3.3, and CC MC E2.A10.1.3.4 do not apply. Many of Applicant's criminal offenses were related to his alcohol and drug abuse. I find because of his long history of abusing alcohol and drugs and repeated lies and lack of commitment to resolving his problems in the past, that it is still too early in his recovery to conclude he is not a security risk due to his criminal conduct. I find that although CC C E2.A10.1.3.6 applies, it is not enough to overcome the security concerns. Applicant failed to mitigate the security concerns under Guideline, J, criminal conduct.

Based on all the evidence, Personal Conduct Disqualifying Condition (PC 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 form used to conduct investigations, determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities*), PC 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*), PC 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*), and PC 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*) apply in this case.

Applicant repeatedly lied on sworn statements and his SCA about his drug and alcohol abuse, to include the types of drugs, the frequency of his use and his continued use after he claimed he had no future intent to use drugs. He has been a drug and alcohol abuser since 1977, and used drugs after obtaining and while holding a security clearance. On numerous occasions he reported to work under the influence of drugs and alcohol. Applicant deliberately provided false and misleading statements to DSS investigators. His conduct shows a consistent disregard for the truth and a pattern of dishonesty. All of the above personal conduct disqualifying conditions apply. His actions raise serious questions about Applicant's character, judgment, and honesty.

I have considered all the mitigating conditions and especially considered Personal Conduct Mitigating Condition (PC MC) E2.A5.1.3.2 (*The falsification was an isolated incident, was not recent, and the individual has subsequently provided correct information voluntarily*), PC MC E2.A5.1.3.3 (*The individual made prompt, good-faith efforts to correct the falsification before being confronted with the facts*), PC MC E2.A5.1.3.4 (*Omission of material facts was caused or significantly contributed to by improper or inadequate advice of authorized personnel, and the previously omitted information was promptly and fully provided*), and PC MC E2.A5.1.3.5 (*The individual has taken positive steps to significantly reduce or eliminate vulnerability to coercion, exploitation, or duress*). I conclude none of the mitigating conditions apply. Applicant has consistently lied about his drug and alcohol abuse and problems. Although Applicant's abuses may have been the impetus behind many of his criminal, drug and alcohol problems, the fact is Applicant deliberately meant to mislead and provide false information to defense investigators on more than one occasion. He minimized his drug and alcohol abuse and these falsifications can not be excused. Based on the reasons provided above under Guidelines H, G and J, I find Applicant failed to mitigate the personal conduct security concerns under Guideline E.

In all adjudications, the protection of our national security is the paramount concern. The objective of the security-clearance process is the fair-minded, commonsense assessment of a person's life to make an affirmative determination that the person is eligible for a security clearance. Indeed, the adjudicative process is a careful weighing of a number of variables in considering the "whole person" concept. It recognizes that we should view a person by the totality of their acts, omissions, motivations and other variables. Each case must be adjudged on its own merits, taking into consideration all relevant circumstances, and applying sound judgment, mature thinking, and careful analysis.

I considered the whole person and I find Applicant has made great strides in confronting his problems and successfully completing a treatment program. However, he has a long history of repeated attempts to tackle his problem with repeated failure. Perhaps this time he has truly made a lifetime commitment to sobriety. Based on that history it is still too early to tell whether his success is fleeting or constant. He is commended for finally facing his problems and working hard to remain sober. Applicant needs a significant period of sobriety and at this stage his sobriety is still too fragile. Therefore, I am persuaded by the totality of the evidence in this case, that it is not clearly consistent with the national interest to grant Applicant a security clearance. Accordingly, Guidelines H, G, J and E are decided against Applicant.

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 H: AGAINST APPLICANT

Subparagraph 1.a-t: Against Applicant

Paragraph 2. Guideline G: AGAINST APPLICANT

Subparagraph 2.a-i: Against Applicant

Paragraph 3. Guideline J: AGAINST APPLICANT

Subparagraph 3.a-s: Against Applicant

Paragraph 4. Guideline E: AGAINST APPLICANT

Subparagraph 4.a-f: Against Applicant

DECISION

In light of all of the circumstances in this case, it is not clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance is denied.

Carol G. Ricciardello

Administrative Judge

1. This action was taken under Executive Order 10865, dated February 20, 1960, as amended, and DoD Directive 5220.6, dated January 2, 1992, as amended and modified (Directive).
2. Tr. 64.
3. GE 22 at 81.
4. Tr. 64-65.
5. GE 23; DSM-IV-TR 4th Ed., defines Polysubstance dependence as "behavior that during the same 12 month period in which the person was repeatedly using at least three groups of substances, but no single substance predominated. During this period, the Dependence criteria were met for substances as a group but not for any specific substance." An example is that although the problems associated with the use of any one substance would not be pervasive enough to justify a diagnosis of Dependence, the overall use of substances significantly impairing ones functioning would thus warrant a diagnosis of Dependence on the substances as a group.
6. GE 23.
7. Tr. 68.
8. Tr. 70.

9. Tr. 67.
10. GE 15.
11. GE 16.
12. Tr. 54.
13. Tr. 55.
14. AE B.
15. *Id.*
16. AE C.
17. AE E.
18. AE G.
19. AE I.
20. ISCR Case No. 96-0277 at 2 (App. Bd. Jul 11, 1997).
21. ISCR Case No. 97-0016 at 3 (App. Bd. Dec. 31, 1997); Directive, Enclosure 3, ¶ E3.1.14.
22. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).
23. ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995); Directive, Enclosure 3, ¶ E3.1.15.
24. ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995); Directive, Enclosure 3, ¶ E3.1.15.
25. *Egan*, 484 U.S. at 531.
26. *Id.*
27. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
28. Executive Order 10865 § 7.
29. E2.A8.1.1.2.1 defines drug abuse as "the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.