

KEYWORD: Alcohol

DIGEST: Applicant is a 40-year-old senior scientist who has worked for a federal contractor and held a secret security clearance since 1991. Applicant was concerned about his alcohol consumption and referred himself for treatment. Although initially he did not believe he was an alcoholic, he later acknowledged and embraced his alcoholism. He had one minor relapse during his initial stages of treatment, but has remained sober for almost a year. Applicant attends Alcoholics Anonymous (AA) almost daily and regularly attends an outpatient alcohol program to prevent relapse. Applicant has not had any alcohol related incidents either before or after his acceptance of his alcoholism. Applicant is totally committed to his sobriety. Applicant has successfully mitigated the security concern regarding alcohol consumption. Clearance is granted.

CASENO: 03-25262.h1

DATE: 10/20/2005

DATE: October 20, 2005

In Re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 03-25262

DECISION OF ADMINISTRATIVE JUDGE

CAROL G. RICCIARDELLO

APPEARANCES

FOR GOVERNMENT

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant is a 40-year-old senior scientist who has worked for a federal contractor and held a secret security clearance since 1991. Applicant was concerned about his alcohol consumption and referred himself for treatment. Although initially he did not believe he was an alcoholic, he later acknowledged and embraced his alcoholism. He had one minor relapse during his initial stages of treatment, but has remained sober for almost a year. Applicant attends Alcoholics Anonymous (AA) almost daily and regularly attends an outpatient alcohol program to prevent relapse. Applicant has not had any alcohol related incidents either before or after his acceptance of his alcoholism. Applicant is totally committed to his sobriety. Applicant has successfully mitigated the security concern regarding alcohol consumption. Clearance is granted.

STATEMENT OF CASE

On December 20, 2004, the Defense Office of Hearings and Appeals (DOHA) issued to Applicant a Statement of Reasons (SOR) stating they were 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, alleges a security concern under Guideline G, alcohol consumption.

In a sworn statement dated January 20, 2005, Applicant responded to the SOR allegations, admitting all of them and provided explanations. Applicant elected to have his case decided on the written record. Department Counsel submitted the government's file of relevant material (FORM) on August 23, 2005. The FORM was received by Applicant on August 30, 2005. Applicant was afforded an opportunity to file objections and submit material in refutation, extenuation, or mitigation. Applicant submitted additional information. Department Counsel had no objections and they were received into the record. The case was assigned to me on October 3, 2005.

FINDINGS OF FACT

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

Applicant is a 40-year-old senior scientist who has worked for a federal contractor since 1991. Applicant is married and has three children. Applicant has held a secret security clearance since 1991, without incident.

Applicant consumed alcohol approximately five times a year during his junior and senior years of high school. In college Applicant consumed alcohol on the weekends. He consumed approximately 2-12 beers on a weekend night. After he graduated from college Applicant reduced his drinking from one or two beers before or after dinner, or on a weekend. Applicant continued this pattern until approximately 2000 when he increased his drinking. He began drinking after work and more heavily after the children went to bed. Applicant also began drinking more heavily on the weekend. Applicant would consume several beers at a time up to a six pack or twelve pack of beer. Applicant usually drank beer, but for approximately three months he began experimenting with vodka and would drink a 200 milliliter bottle each time. Applicant believed his alcohol use increased due to increased responsibilities at work and increased responsibility at home due to the birth of his third child.

In 2001, Applicant, through self-referral, sought medical attention. A medical doctor prescribed an antidepressant for Applicant and Applicant requested he be prescribed antabuse. It was also recommended that he attend Alcoholics Anonymous (AA). Applicant took the antabuse for approximately 1-2 months, starting in April 2001, before discontinuing it due to side effects. Applicant attended AA several times a week for about six months. Applicant advised his employer supervisor that he was attending AA. He later discontinued going because he did not feel he was in the same desolate situation as the other attendees, i.e. he had not hit rock bottom.⁽²⁾ Applicant consumed alcohol for no more than three days while on antabuse. Applicant admits that in August 2002, when answering questions regarding his alcohol use to the Defense Security Service (DSS) agent, he did not believe he was a true alcoholic and he believed he could control his drinking.⁽³⁾

Applicant attended a professional alcohol recovery counseling program from July 2001 to September 2001, and was diagnosed as alcohol dependent. He was required to abstain from using alcohol while being treated in this program. Applicant slipped and used alcohol. Applicant continued to use alcohol, but had a "healthy respect for alcohol"⁽⁴⁾ and drank 2-3 drinks at a time about 2-3 days a week or on the weekend.⁽⁵⁾

On April 25, 2004, Applicant decided to stop drinking. On April 26, 2004, Applicant began attending AA again. He attended a meeting at least once a day and sometimes several meetings a day until September 2004. He had achieved four months of sobriety and had a slip and stopped attending meetings. This became a defining moment to Applicant and he realized he was a true alcoholic and the only solution was complete abstinence and active AA membership.⁽⁶⁾ Applicant went back to AA on November 6, 2004, and has continued to do so continuously until at least September 2005.⁽⁷⁾ Applicant has an AA sponsor and a secondary sponsor. Applicant meets with his sponsor face to face several times a week and he calls him on a regular basis.⁽⁸⁾ Applicant also participates in an outpatient "relapse prevention"

seminar.⁽⁹⁾ The clinical supervisor and program director states Applicant's prognosis is very good if he keeps on track with all treatment directives.⁽¹⁰⁾ Applicant has abstained from consuming alcohol for almost a year.⁽¹¹⁾ Applicant is fully immersed in the 12-step program of AA. He has consistently participated in service work in his AA group home.

Applicant has never had a work-related incident due to his alcohol. Applicant's recognition, acceptance, treatment and attendance at AA were all self-referred. Applicant received excellent performance appraisals from 2001 to 2005.

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. Considering the evidence as a whole, Guideline G, pertaining to alcohol consumption, with its respective DC and MC, applies in this case. 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.⁽¹²⁾ The government has the burden of proving controverted facts.⁽¹³⁾ The burden of proof is something less than a preponderance of evidence.⁽¹⁴⁾ 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.⁽¹⁵⁾ Additionally, an applicant has the ultimate burden of persuasion to obtain a favorable clearance decision.⁽¹⁶⁾

No one has a right to a security clearance⁽¹⁷⁾ and "the clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials."⁽¹⁸⁾ Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.⁽¹⁹⁾ The decision to deny an individual a security clearance is not necessarily a determination as to the loyalty of an applicant.⁽²⁰⁾ 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 guideline most pertinent to the evaluation of the facts in this case:

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.

Conditions that could raise a security concern and may be disqualifying, as well as those which would mitigate security concerns, pertaining to the adjudicative guideline 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 Guideline G.

Based on all the evidence I 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*), 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*), AD DC E2.A7.1.2.3 (*Diagnosis by a credentialed medical professional (e.g. physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence*), and AC DC 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*) and conclude none apply. Although there is evidence Applicant was diagnosed as alcohol dependent, [\(21\)](#) there is no evidence as to what the credentials were of the person making the diagnosis. No other evidence supports any of the other disqualifying conditions, however, I have also considered the whole person concept and conclude that Applicant's alcoholism was serious and could have lead to impaired judgment and irresponsibility. Although no specific evidence was presented to show any specific incidents, it is not necessary to wait for a mistake to happen before taking action. Therefore, I conclude alcohol consumption was a security concern.

I have considered all the mitigating conditions and specifically 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*). Applicant did not have any identified alcohol-related incidents, therefore there was no pattern to rebut. AC MC E2.A7.1.3.1 applies. Applicant has been completely sober for almost a year, which does not constitute enough time to apply AC MC E2.A7.1.3.2. Applicant took affirmative, self-directed steps to recognize a problem he thought he might have, alcoholism. Although he faltered in the beginning and denied he was an alcoholic, he now firmly understands and accepts that he is. He attends AA and is committed to their program. He attends an alcohol relapse program to further bolster his commitment to sobriety. Applicant accepted the fact he had a problem in his life and decided to tackle it before it effected his professional and personal life. Applicant has made great changes in his life to remain sober and he did it on his own initiative. Applicant's positive changes and actions he has taken are all supportive of his sobriety. Although it has not quite a year since Applicant has been completely sober, his insight, commitment, devotion, and success to leading a sober lifestyle impact greatly on the potential concerns raised by his alcohol consumption. I find AC MC E2.A7.1.3.3 applies.

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 various 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 have considered all the evidence in this case. I have also considered the "whole person" concept in evaluating Applicant's risk and vulnerability in protecting our national interests. I am persuaded by the totality of the evidence in this case that it is clearly consistent with the national interest to grant Applicant a security clearance. Applicant has mitigated the security concerns caused by his alcohol consumption. Accordingly, Guideline G, pertaining to alcohol consumption is decided for 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 Alcohol Consumption (Guideline G) 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

Subparagraph 1.e. 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 Applicant. Clearance is granted.

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. Item 5 at 2.

3. Item 2 at 2.

4. *Id.*

5. *Id.*

6. *Id.* at 2.

7. Additional material provided by Applicant dated September 22, 2005, attachment 2, pp. 2-11. This attachment is a copy of Applicant's sign-in sheets for attendance at AA meetings from November 30, 2004 to September 22, 2005. Applicant attended approximately 257 sessions during this time frame. On some days Applicant attended multiple times.

8. *Id.*

9. Item 2 at 2; Statement dated September 22, 2005, attachment 3, pp. 1-3. This attachment is a copy of Applicant's sign-in sheet for attendance at the relapse program from November 30, 2004 to September 15, 2005. Applicant attended approximately 64 times
10. Item 2, attachment 4.
11. Statement dated September 22, 2005.
12. ISCR Case No. 96-0277 (July 11, 1997) at p. 2.
13. ISCR Case No. 97-0016 (December 31, 1997) at p. 3; Directive, Enclosure 3, ¶ E3.1.14.
14. *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988).
15. ISCR Case No. 94-1075 (August 10, 1995) at pp. 3-4; Directive, Enclosure 3, ¶ E3.1.15.
16. ISCR Case No. 93-1390 (January 27, 1995) at pp. 7-8; Directive, Enclosure 3, ¶ E3.1.15.
17. *Egan*, 484 U.S. at 531.
18. *Id.*
19. *Id.*; Directive, Enclosure 2, ¶ E2.2.2.
20. Executive Order 10865 § 7.
21. Item 2 at attachment 4.