

KEYWORD: Alcohol

DIGEST: Applicant has a long history of excessive consumption of alcohol, resulting in hospitalization for detoxification in August 1994, July 2002, March 2003, July 2003, and the Spring of 2004, and a conviction for Driving Under the Influence of Alcohol in 2000. Applicant was diagnosed as alcohol dependent and obtained treatment on several occasions, but later resumed drinking alcohol to excess. He has been abstinent for over one year, and is dedicated to living alcohol-free hereafter. Applicant failed to mitigate the security concerns arising from his alcohol consumption. Clearance is denied.

CASENO: 04-08975.h1

DATE: 03/03/2006

DATE: March 3, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-08975

DECISION OF ADMINISTRATIVE JUDGE

MICHAEL J. BRESLIN

APPEARANCES

FOR GOVERNMENT

Sabrina E. Redd, Esq., Department Counsel

FOR APPLICANT

Willie Jean Brumbelow, Personal Representative

SYNOPSIS

Applicant has a long history of excessive consumption of alcohol, resulting in hospitalization for detoxification in August 1994, July 2002, March 2003, July 2003, and the Spring of 2004, and a conviction for Driving Under the Influence of Alcohol in 2000. Applicant was diagnosed as alcohol dependent and obtained treatment on several occasions, but later resumed drinking alcohol to excess. He has been abstinent for over one year, and is dedicated to living alcohol-free hereafter. Applicant failed to mitigate the security concerns arising from his alcohol consumption. Clearance is denied.

STATEMENT OF THE CASE

On November 7, 2002, Applicant submitted an application for a security clearance. The Defense Office of Hearings and Appeals (DOHA) declined to grant or continue a security clearance for Applicant under Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), as amended, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Jan. 2, 1992), as amended (the "Directive"). On June 14, 2005, DOHA issued a Statement of Reasons (SOR) detailing the basis for its decision. The SOR alleges security concerns raised under the Directive, specifically Guideline G, Alcohol Consumption.

Applicant answered the SOR in writing on July 7, 2005. He elected to have a hearing before an administrative judge.

The case was assigned to me on September 28, 2005. With the concurrence of Applicant and Department Counsel, I convened the hearing on November 18, 2005. The government introduced Exhibits 1 through 12. Applicant presented Exhibits A through N and called one witness. Applicant also testified on his own behalf. DOHA received the final

transcript of the hearing (Tr.) on December 1, 2005.

FINDINGS OF FACT

Applicant admitted the factual allegations in ¶¶ 1.a, 1.b (in part), 1.c, 1.d, 1.e, 1.f, and 1.g of the SOR, with explanations. Applicant's Answer to SOR, dated July 7, 2005. Those admissions are incorporated herein as findings of fact. He denied the factual allegations in ¶¶ 1.b (in part) and 1.g. (*Id.*) After a complete and thorough review of the evidence in the record, I make the following additional findings of fact.

Applicant was born in January 1955. (Ex. 1 at 1.) He began drinking alcohol at about age 12, but did not begin drinking on a steady basis until he was about 19 years old. (Ex. 9 at 2.) After completing high school, Applicant went to a technical school and was trained as a welder. (Ex. 8 at 13.)

Applicant was married for the first time in January 1974. (Ex. 1 at 2.) Two children were born of the marriage. (*Id.*) He was divorced in November 1989. (*Id.*) Applicant was married for the second time in January 1992. (Ex. 1 at 2.) Applicant has one child from his second marriage. (Tr. at 42.)

Applicant drank alcohol very heavily for many years. (Ex. 2 at 1, 2.) At times he consumed a up to a case of beer each day. (*Id.* at 2; Ex. 9 at 4.) Eventually, he recognized alcohol controlled his daily life.

In August 1994, Applicant sought treatment at a medical center. (Ex. 9 at 2.) A physician diagnosed him as alcohol dependent. (Ex. 9 at 2, 9, 14.) He was hospitalized for about five days for detoxification, completed the regimen, and was discharged. (*Id.* at 8.) His physician recommended abstinence from alcohol and daily attendance at Alcoholics Anonymous (AA) meetings. (*Id.* at 1.)

In July 1997, Applicant began working for his present employer, a defense contractor, applying special technical coatings. (Ex. 1 at 1; Tr. at 67.) He has held a security clearance since 1997. (Tr. at 67.)

In February 2000, when he was 45 years old, Applicant was arrested and charged with Driving Under the Influence of

Alcohol. (Ex. 3; Ex. 4.) Applicant pled guilty to the charge. The sentence included a \$950.00 fine, 12 months probation, a four-month license suspension (with permission to drive to work), 40 hours community service, and 40 hours attendance at DUI school. (Ex. 2 at 1.) Applicant completed all the requirements of his sentence and was released from probation. (*Id.*)

Applicant experienced several personal tragedies; his mother and father passed away, his second wife's son died, and his wife was diagnosed with cancer. (Tr. at 42.) In about April 2001, physicians advised she had three to five years remaining. (Tr. at 41.) Applicant took family leave to care for her. His alcohol consumption increased. (Ex. 7 at 2.)

In July 2002, when he was 47 years old, Applicant drank a large quantity of alcohol and was taken to the emergency room of a local hospital where his blood-alcohol level was .428 %. (Ex. 8 at 13.) He transferred to another medical facility on July 25, 2002. Applicant admitted he drank about a case of beer each day. (*Id.*) The facility admitted him for detoxification. After about two days, Applicant suffered delirium tremens and chest pain, and was transferred to an intensive care unit. (Ex. 7 at 2.) Applicant was readmitted to the treatment facility on July 30, 2002, completed the detoxification program, and was discharged August 1, 2002. (*Id.*) His physician diagnosed alcohol dependence.

Applicant abstained from drinking alcohol for about three months, and then resumed his previous course. (Ex. 6 at 4.) On March 17, 2003, he was admitted to the emergency room after drinking about a case of beer. Applicant indicated he was drinking because of the stress he felt over his wife's ongoing battle with cancer, including her pending surgery. He was diagnosed as alcohol dependent, admitted for detoxification, and discharged on March 24, 2003. (Ex. 6 at 2-3.) His physician prescribed Antabuse daily, along with other medications. (*Id.*) Applicant took the Antabuse for only about two weeks. (Ex. 5 at 6; Tr. at 61.)

On July 24, 2003, Applicant was taken to the emergency room, where he had a blood-alcohol level of .186 %. (Ex. 5 at 6.) He admitted drinking about a case of beer each day for the previous four weeks. He was diagnosed as alcohol dependent and admitted to the treatment facility. (Ex. 5 at 6.) The facility discharged Applicant on July 26, 2003.

Applicant was hospitalized in about the Spring of 2004 for excessive alcohol consumption. (Tr. at 39, 63.) It took him an exceptionally long time to go into detoxification (108 hours) and to come out of the delirium tremens (a week and a half). (Tr. at 39.) Physician's thought he had a 50% chance of brain and liver damage, and suggested he may be institutionalized thereafter. (Tr. at 39.) Applicant has not consumed alcohol since his release from the hospital in the summer of 2004. (Tr. at 62.) In the summer of 2005, Applicant's physician prescribed medication to prevent Applicant from consuming alcohol, however the side-effects were too severe and Applicant did not take it. (Tr. at 61; Ex. 11.)

At the hearing, Applicant testified that he is an alcoholic. (Tr. at 52.) He indicated he will never be cured and that he can only control it. (Tr. at 53.) Applicant works a swing shift, and also works as many hours as possible, including weekends, to increase his earnings. (Tr. at 53.) He is unable to attend regular AA meetings because of his work

schedule, but he consults his treating physician as often as monthly. (Tr. at 48.) He is aware that his history of excessive alcohol consumption caused serious health problems for him. (Tr. at 65.) His heavy drinking killed the nerve to his bladder; he must take medication daily for his bladder to function. (Tr. at 40.) He knows he was fortunate not to have brain or liver damage after his previous episodes, and is aware that if he continues to drink heavily it will kill him. (*Id.*)

POLICIES

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." (*Department of the Navy v. Egan*, 484 U.S. 518, 527 (1988)). In Executive Order 10865, *Safeguarding Classified Information Within Industry* (Feb. 20, 1960), the President set out guidelines and procedures for safeguarding classified information within the executive branch.

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 this adjudicative guideline, 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.)

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.

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.

Paragraph E2.A7.1.2.1 of the Directive provides that it may be a disqualifying condition if the evidence reveals "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." The evidence reveals one instance in February 2000 where Applicant committed an alcohol-related driving offense away from work. I conclude this potentially disqualifying condition is raised.

Under the Directive, ¶ E2.A7.1.3, "[d]iagnosis by a credentialed medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence" may be disqualifying. On several occasions, specifically August 1994, August 2002, March 2003, and July 2003, credentialed medical professionals diagnosed Applicant as alcohol dependent. The evidence raises this potentially disqualifying condition.

Paragraph E2.A7.1.2.5 of the Directive provides that "[h]abitual or binge consumption of alcohol to the point of impaired judgment" may be disqualifying. The Directive does not define the terms "binge" or "habitual" in reference to alcohol consumption. In this case, Applicant admitted consuming large quantities of alcohol-as much as a case of beer each day-for many years. I conclude the evidence raises this potentially disqualifying condition.

Finally, the Directive, ¶ E2.A7.1.2.6, states that 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." Applicant was diagnosed as alcohol dependent in 1994 and on several occasions thereafter, and successfully completed DUI school and several alcohol detoxification programs, but resumed drinking alcohol. This potentially disqualifying condition applies.

The security concerns arising from excessive alcohol consumption can be mitigated. Under the Directive, ¶ E2.A7.1.3.1, it may be mitigating where "[t]he alcohol-related incidents do not indicate a pattern." Applicant had only a single "alcohol-related incident" in this case-the DUI in 2000-therefore, it does not indicate a pattern. This potentially mitigating condition applies, although I am mindful of the additional evidence relating to the extent of Applicant's alcohol problem.

Under ¶ E2.A7.1.3.2 of the Directive, it may be mitigating where "[t]he problem occurred a number of years ago and there is no indication of a recent problem." Applicant's alcohol problem began many years ago, but continued until at least 2004. I conclude there is evidence of a recent problem, and this potentially mitigating condition does not apply.

Paragraph E2.A7.1.3.3 provides that "[p]ositive changes in behavior supportive of sobriety" may also be a mitigating factor. Following his last hospitalization for alcohol dependency in 2004, Applicant has remained sober. He gained increased awareness of the dangers of drinking, and has committed to living alcohol-free. I find this potentially mitigating condition applies.

I considered the potentially disqualifying and mitigating factors in light of the "whole person" concept. Applicant is a mature individual who has worked for a defense contractor for over 17 years. He consumed alcohol excessively for most of his adult life, and has shown very little amenability to rehabilitation. He experienced many personal tragedies in his life, and they exacerbated his drinking problem. Although he appears to be committed to recovery this time, it is too soon to find that Applicant's alcohol problems are resolved. I conclude Applicant has not mitigated the security concerns arising from his lengthy 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: Against Applicant

Subparagraph 1.c: Against Applicant

Subparagraph 1.d: Against Applicant

Subparagraph 1.e: Against Applicant

Subparagraph 1.f: Against Applicant

Subparagraph 1.g: For Applicant

Subparagraph 1.h: 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