

KEYWORD: Alcohol Consumption

DIGEST: Applicant has a history of alcohol abuse, including an alcohol-related traffic arrest in 1999. Notwithstanding the completion of an alcohol treatment program in 2001, he subsequently had two drinks in December 2001. Since then he has been alcohol free. At the request of the adjudicator he received an alcohol abuse evaluation in January 2005. He then voluntarily entered another treatment program. His discharge summary indicated a diagnosis as being in sustained full remission from the use of alcohol. He provided sufficient evidence mitigating the security concerns raised under Guideline G (alcohol consumption). Clearance is granted.

CASE NO: 04-09967.h1

DATE: 06/12/2006

DATE: June 12, 2006

In re:

SSN: -----

Applicant for Security Clearance

ISCR Case No. 04-09967

DECISION OF ADMINISTRATIVE JUDGE

CHRISTOPHER GRAHAM

APPEARANCES

FOR GOVERNMENT

Melvin A. Howry, Esq., Department Counsel

FOR APPLICANT

Pro Se

SYNOPSIS

Applicant has a history of alcohol abuse, including an alcohol-related traffic arrest in 1999. Notwithstanding the completion of an alcohol treatment program in 2001, he subsequently had two drinks in December 2001. Since then he has been alcohol free. At the request of the adjudicator he received an alcohol abuse evaluation in January 2005. He then voluntarily entered another treatment program. His discharge summary indicated a diagnosis as being in sustained full remission from the use of alcohol. He provided sufficient evidence mitigating the security concerns raised under Guideline G (alcohol consumption). Clearance is granted.

STATEMENT OF THE CASE

On September 9, 2005, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant pursuant to Executive Order 10865, *Safeguarding Classified Information Within Industry*, dated February 20, 1960, as amended and modified, and Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (Directive), dated January 2, 1992, as amended and modified. The SOR alleged reasons under Guideline G (alcohol consumption) why DOHA could not make the preliminary affirmative finding under the Directive that it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

In a written statement dated September 30, 2005, Applicant responded to the allegations in the SOR and requested a hearing. The case was assigned another administrative judge on October 28, 2005, but was reassigned to me on November 7, 2005, due to caseload considerations. A Notice of Hearing was issued November 10, 2005, scheduling the hearing for December 12, 2005. The hearing was held as scheduled. At the hearing, the government offered eight exhibits, Applicant submitted two exhibits, and Applicant testified in his own behalf. The transcript (Tr.) was received December 28, 2005.

FINDINGS OF FACT

Applicant admitted the allegations in the SOR. These admissions are incorporated herein as findings of fact. I make the following additional findings of fact.

Applicant is a 43-year-old senior computing security analyst with a federal contractor.⁽¹⁾ He is married and has one child. Two children from a previous marriage live with their mother.⁽²⁾ After serving three years, he received an honorable discharge from the U. S. Army. He has a master's degree in information technology.⁽³⁾

Applicant was arrested on April 1, 1983, and charged with public intoxication. Charges were later dismissed.⁽⁴⁾ On August 2, 1999, he was arrested and charged with driving while under the influence (DUI), and two counts of hit and run.⁽⁵⁾ He hit one car in a fast-food drive-thru and then hit a second car in a grocery store parking lot. He admitted to consuming two pitchers of beer.⁽⁶⁾ He received a deferred prosecution in return for completing an alcohol rehabilitation program and paying \$575.00 in fines and costs.⁽⁷⁾ He attended the alcohol rehabilitation program from August 16, 1999 until August 2, 2001. He was diagnosed as alcohol dependent, successfully completed the program, and was discharged with the recommendations to remain sober and continue attending AA meetings.⁽⁸⁾

He had two alcoholic beverages in December 2001, and has had no alcohol since that time.⁽⁹⁾ As part of this security clearance process, DOHA's adjudicators requested that he undergo an alcohol abuse evaluation.⁽¹⁰⁾ On January 3, 2005, he underwent such an evaluation. He was diagnosed as having alcohol dependence due to his "continuing to drink despite awareness of suffering from severe physical or psychological problems likely caused by alcohol and not being able to maintain total abstinence after prior treatment and AA experience."⁽¹¹⁾ He was advised to attend extensive long-term treatment to treat his alcohol addiction. He began such a program on January 5, 2005.⁽¹²⁾

Applicant's most recent treatment director said,

Having established an impressive period of abstinence he no longer displays a behavior pattern or value system expressive of past addictive behavior. He has made positive personal changes supportive of ongoing abstinence, and has oriented his life toward maintenance of the clean and sober lifestyle. He is assessed as being in Sustained Full Remission from the use of beverage alcohol (no recurring symptoms, and twelve or more months of abstinence); and is recommended for consideration under condition of present-day recovery status.⁽¹³⁾

His supervisor said,

His professionalism and security expertise is not only recognized within the company, but at various national and international defense and security organizations. His roles at the company required significant self-discipline, initiative, and individual accountability. I do not believe that classified information, the safeguarding of company resources, or personnel are in any way at risk because of his alcoholism. He has taken complete accountability for and continues to address his disease on a constant basis. [\(14\)](#)

POLICIES

"[No] one has a 'right' to a security clearance." [\(15\)](#) As Commander-in-Chief, 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." [\(16\)](#) The President has restricted eligibility for access to classified information 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 coercion, and willingness and ability to abide by regulations governing use, handling, and protection of classified information." [\(17\)](#) Eligibility for a security clearance may be adjudicated using the security guidelines contained in the Directive.

Enclosure 2 of the Directive sets forth personnel security guidelines, as well as the disqualifying conditions (DC) and mitigating conditions (MC) under each guideline. In evaluating the security worthiness of an applicant, the administrative judge must also assess the adjudicative factors listed in ¶ 6.3 of the Directive: nature and seriousness of the conduct and surrounding circumstances; frequency and recency of the conduct; age of the Applicant; motivation of the applicant, and the extent to which the conduct was negligent, wilful, voluntary, or undertaken with knowledge of the consequences involved; absence or presence of rehabilitation; and probability that the circumstances or conduct will continue or recur in the future.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that disqualify, or may disqualify, the applicant from being eligible for access to classified information. [\(18\)](#) The Directive presumes a nexus or rational connection between proven conduct under any of the disqualifying conditions listed in the guidelines and an applicant's security suitability. [\(19\)](#)

Once the Government establishes a disqualifying condition, the burden shifts to the applicant to rebut, explain,

extenuate, or mitigate the facts. ⁽²⁰⁾ An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ⁽²¹⁾ 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 judgment, reliability and trustworthiness of one who will protect the national interests as his or his 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. ⁽²²⁾ Decisions under this Directive include, by necessity, consideration of the possible risk an applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, not actual, risk of compromise of classified information.

Applicant's allegiance, loyalty, and patriotism are not at issue in these proceedings. Section 7 of Executive Order 10865 specifically provides industrial security decisions shall be "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Security clearance decisions cover many characteristics of an applicant other than allegiance, loyalty, and patriotism.

Having considered the evidence as a whole, I find the following guideline most pertinent to an evaluation of the facts of this case:

Guideline G: 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.

CONCLUSIONS

The government has established its case under Guideline G. The Applicant has a history of alcohol-related incidents and arrests. The arrest records, the clinical evaluations, Applicant's own admissions in his response to the SOR, and his testimony, support the SOR allegations. The following Guideline G Alcohol Consumption Disqualifying Conditions (AC DC) apply: 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 their criminal incidents related to alcohol use*); 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 E2.A7.1.2.6. (*Consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program*).

Applicant stopped drinking in December 2001. He has not had a drink in four years. After his January 2005 evaluation, Applicant voluntarily entered and completed the treatment program, achieving a diagnosis of sustained full remission.

He is attending AA meetings and recognizes the importance of peer support that AA furnishes. His supervisor supports granting his clearance. I find that Applicant has satisfied the following Alcohol Consumption Mitigating Conditions (AC MC). E2.A7.1.3.2. *(The problem occurred a number of years ago and there is no indication of a recent problem)*; E2.A7.1.3.3. *(Positive changes in behavior supportive of sobriety)*; and E2.A7.1.3.4. *(Following diagnosis of alcohol abuse or alcohol dependence, the individual 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 or licensed clinical social worker who is a staff member of a recognized alcohol treatment program)*. I conclude Guideline G for the Applicant.

I have carefully weighed all of the evidence, and I have applied the disqualifying and mitigating conditions listed under each applicable adjudicative guideline. I have also considered the whole person concept as contemplated by the Directive ¶6.3, as called for by a fair and commonsense assessment of the record before me as required by Directive ¶ E2.2.3. These facts lead me to conclude that Applicant has the ability to protect classified information and to exercise the requisite good judgment and discretion expected of one whom the government entrusts its interests. I conclude it is clearly consistent with the national interest to grant or continue Applicant's security clearance.

FORMAL FINDINGS

Formal findings For or Against Applicant on the allegations set forth in the SOR, as required by E3.1.25 of Enclosure 3 of the Directive, are:

Paragraph 1., Guideline G: FOR APPLICANT

Subparagraph 1.a. For Applicant

Subparagraph 1.b. For Applicant

Subparagraph 1.c. For Applicant

Subparagraph 1.d. For Applicant

Subparagraph 1.e. For Applicant

Subparagraph 1.f. For 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 Applicant's security clearance. Clearance is granted.

Christopher Graham

Administrative Judge

1. Tr. at 15-16.

2. Tr. at 17.

3. *Id.*

4. Government Exhibit 1 (Personnel Security Questionnaire, dated January 14, 1992) at 3.

5. Government Exhibit 4 (Police Report, dated August 3, 1999) at 1, 11-13.

6. *Id.* at 7-8.

7. Government Exhibit 5 (Docket Sheet, dated from August 3, 1999 through February 10, 2004) at 1-9.
8. Government Exhibit 6 (Discharge Summary, dated August 2, 2001) at 1-2.
9. Tr. at 23-25.
10. Government Exhibit 8 (Answers to Interrogatories, January 5, 2005) at 3-4, 10-12.
11. *Id.* at 6-7.
12. *Id.*
13. Appellant's Exhibit B (Letter from Certified Drug and Alcohol Treatment Program, dated September 30, 2005) at 1.
14. Appellant's Exhibit A (Letter from Supervisor, dated December 5, 2005) at 1.
15. *See Department of the Navy v. Egan*, 484 U.S. 518, 528 (1998).
16. *Id.* at 527.
17. Exec. Or. 12968, *Access to Classified Information*, § 3.1(b) (Aug. 4, 1995).
18. *Egan, supra*, at 531.
19. *See* ISCR Case No. 95-0611 at 2 (App. Bd. May 2, 1996).
20. *See* ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002).
21. *Id.*, at 3.
22. *See Egan*; Directive ¶ E2.2.2.