

DATE: May 7, 1997

In Re:

SSN: -----

Applicant for Security Clearance

ISCR OSD Case No. 97-0076

DECISION OF ADMINISTRATIVE JUDGE

JOHN G. METZ, JR.

APPEARANCES

FOR THE GOVERNMENT

William S. Fields, Esquire

Department Counsel

FOR THE APPLICANT

Pro se

STATEMENT OF THE CASE

On 10 February 1997, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant, stating that DOHA could not make the preliminary affirmative finding⁽¹⁾ that it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. On 24 February 1997, Applicant answered the SOR and requested an administrative decision on the record. Applicant did not respond to the Government's File of Relevant Material (FORM)--issued 5 March 1997; the record in this case closed 19 April 1997, the day the response was due at DOHA. The case was originally assigned to a different administrative judge, but was reassigned to me because of workload considerations on 30 April 1997. I received the case on 30 April 1997 to determine whether clearance should be granted, continued, denied or revoked.

The SOR is attached to this Decision and incorporated by reference.

FINDINGS OF FACT

Applicant admitted the factual allegations of the SOR; accordingly, I incorporate Applicant's admissions as findings of fact.

Applicant--a 48-year old employee of a defense contractor--seeks to retain a security clearance.

The allegations of the SOR revolve around Applicant's extensive history of alcohol abuse, which has resulted in multiple treatments for alcohol abuse and dependence.⁽²⁾ Applicant was first treated for alcohol abuse in November 1982 (Item 10).⁽³⁾ He was diagnosed as suffering from alcoholism. He was unable to remain sober and entered a second,

different treatment program for alcohol abuse in October 1986 (Item 9).⁽⁴⁾ This time he achieved nearly five years of sobriety, but relapsed in approximately April 1991. In September 1991, he received outpatient treatment for his bipolar disorder, but the medical records noted his "history of alcohol addiction, continuous."⁽⁵⁾

The September 1991 treatment apparently raised security concerns, because the Defense Investigative Service (DIS) interviewed Applicant about his mental health and alcohol history in January 1992. In June 1992, Applicant reduced that history to writing (Item 5).⁽⁶⁾ In January 1994, Applicant was evaluated for his bipolar disorder (Item 7).⁽⁷⁾ Applicant was to undertake treatment which required him to abstain from all alcohol. He was unable to do so. On 23 February 1994, he was admitted to another hospital for alcohol treatment (Item 12).⁽⁸⁾ He was placed in an outpatient program. During the three-week program, Applicant relapsed on two separate occasions, and was placed on antabuse. At discharge, he had been sober approximately ten days.

Applicant continued to have problems with his bipolar disorder, but was apparently able to remain sober for a time. Treatment records from a February 1995 admission for bipolar disorder (Item 11) reported his history of alcohol dependence but noted he had been sober for the past year. However, his treatments had again come to the attention of the DIS and he was interviewed by the DIS in July 1995 (Item 4).⁽⁹⁾

In May 1996, Applicant again sought treatment for "alcohol and stress."⁽¹⁰⁾ (Item 6). The discharge diagnosis reports alcohol dependence, but no prognosis for continued sobriety.

POLICIES

Enclosure 2 of the Directive sets forth adjudicative guidelines to be considered in evaluating an individual's security eligibility. The Administrative Judge must take into account the conditions raising or mitigating security concerns in each area applicable to the facts and circumstances presented. Each adjudicative decision must also assess the factors listed in Section F.3. and in Enclosure (2) of the Directive. Although the presence or absence of a particular condition for or against clearance is not determinative, the specific adjudicative guidelines should be followed whenever a case can be measured against this policy guidance, as the guidelines reflect consideration of those factors of seriousness, recency, motivation, *etc.*

Considering the evidence as a whole, the following adjudication policy factors are most pertinent to this case:

ALCOHOL CONSUMPTION (CRITERION 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.

Conditions that could raise a security concern and may be disqualifying include:

- (1) alcohol-related incidents away from work. . .
- (2) alcohol-related incidents at work, such as . . . drinking on the job;
- (3) diagnosis by a credentialed medical professional of . . . alcohol dependence;
- (4) habitual or binge consumption of alcohol to the point of impaired judgment;
- (5) consumption of alcohol, subsequent to a diagnosis of alcoholism by a credentialed medical professional and following completion of an alcohol rehabilitation program.

Conditions that could mitigate security concerns include:

- (3) positive changes in behavior supportive of sobriety

Burden of Proof

Initially, the Government must prove controverted facts alleged in the Statement of Reasons. If the Government meets that burden, the burden of persuasion then shifts to Applicant to establish his security suitability through evidence of refutation, extenuation or mitigation sufficient to demonstrate that, despite the existence of disqualifying conduct, it is nevertheless clearly consistent with the national interest to grant or continue the security clearance.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. Where facts proven by the Government raise doubts about an applicant's judgment, reliability or trustworthiness, the applicant has a heavy burden of persuasion to demonstrate that he or she is nonetheless security worthy. As noted by the United States Supreme Court in *Department of the Navy v. Egan*, 484 U.S. 518, 531 (1988), "the clearly consistent standard indicates that security-clearance determinations should err, if they must, on the side of denials."

CONCLUSIONS

The Government has established its case under criterion G. The record clearly establishes many years of alcohol abuse by Applicant. While that abuse is inextricably intertwined with Applicant's bipolar disorder, the fact of bipolar disorder does not, of itself, mitigate or extenuate Applicant's alcohol abuse. Applicant has been diagnosed as alcohol dependent by credentialed medical professionals on multiple occasions, but continues to relapse to alcohol abuse. The medical records reflect Applicant's recognition--as early as 1982--of the adverse consequences of alcohol abuse and Applicant's need to abstain from alcohol, but he continues to relapse. Applicant has acknowledged his need to attend AA, but has not done so on any meaningful level. Applicant's occasional periods of abstinence suggest he has the tools to remain sober, but his many relapses suggest he does not know how to use those tools consistently. His most recent treatment record contains nothing to suggest that Applicant has put his alcohol abuse behind him for good. His answer to the SOR contains no evidence to support a conclusion that Applicant has adopted any long-term recovery plan.

Given Applicant's multiple relapses, and the dearth of evidence concerning Applicant's commitment to AA or other recovery methodology, I am unable to conclude that Applicant has acquired the tools necessary to maintain sobriety. I find criterion G. against Applicant.

FORMAL FINDINGS

Paragraph 1. Criterion G: AGAINST THE APPLICANT

Subparagraph a: Against the Applicant

Subparagraph b: Against the Applicant

Subparagraph c: Against the Applicant

Subparagraph d: Against the Applicant

Subparagraph e: Against the Applicant

Subparagraph f: Against the Applicant

Subparagraph g: Against the Applicant

Subparagraph h: Against the Applicant

DECISION

In light of all 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.

John G. Metz, Jr.

Administrative Judge

1. Required by Executive Order 10865, as amended and Department of Defense Directive 5220.6, dated January 2, 1992--and amended by Change 3 dated 16 February 1996 (Directive).
2. Applicant also suffers from bipolar disorder--a mental disorder with potential security significance; however, the SOR does not allege this as a disqualifying condition. Consequently, I have not considered the medical record evidence of bipolar disorder, except where it seems directly connected to Applicant's alcohol abuse.
3. Applicant went to the hospital because he was throwing up blood; his blood alcohol content (BAC) at the time of admission was .139 per cent. While in the hospital, the hospital staff confronted Applicant about his alcohol consumption and Applicant decided to enter the treatment program. During the program, Applicant acknowledged drinking two-three quarts of beer daily--both before and after work. He noted adverse consequences: sloppy attitude and appearance, arguments with his wife, missed work, impulse buying of unneeded items, money problems from spending \$100.00 a month on alcohol, blackouts, mood swings, and shakes upon withdrawal. He admitted being guilty about his drinking and breaking past promises to stop, admitted being socially ill at ease if he was not drinking, admitted gulping and sneaking drinks, and reported urgency to get his first drink daily. Nevertheless, during treatment he acknowledged his alcoholism and successfully completed the program with an excellent prognosis for continued sobriety.
4. Progress notes at the time of admission state that Applicant gave a history of daily drinking. He acknowledged having some minor money problems because of overspending on beer, and admitted doing nothing with his spare time but drinking. He described his full acceptance of his alcohol problem: "It [alcohol] controls me, I don't control it. I can and will live without it. It can and will kill me. I can function without it. . ."
5. Item 8 noted the history of present illness: " The patient has a chronic history of alcohol abuse since 1982. He was admitted to [1982 hospital] for alcohol addiction. The patient stayed clean and sober in 1984. The patient also went through alcohol addiction program at [1986 hospital]. The patient apparently stopped drinking since then. . . He started drinking again two months prior to June. He also started drinking a week or so prior to my seeing him."
6. Applicant described his alcohol treatment history: ". . . I was treated at the [1986 hospital] for alcohol abuse. That treatment lasted for about one week. I was referred to [1986 hospital] by my (then) family physician. . . I approached [family physician] because I was drinking too much and I was getting close to becoming divorced if I did not do something about my consumption of alcohol." From about 1967 to 1982, Applicant drank at least one six-pack of beer per day during the week and occasionally a case of beer on the weekend. From the date of the 1982 treatment to 1986, Applicant claims that he did not consume much alcohol at all--an assertion belied by the medical records of the 1986 treatment. After his relapse in 1986, Applicant claims to have been alcohol free until about April 1991. However, from April 1991 to August 1991, Applicant drank about two six packs of beer per week.
7. The history of present illness notes: ". . . He also has a past history of alcohol dependence and was treated at [1986 hospital] approximately nine years ago for alcohol related problems. At that time he was having problems with his wife secondary to alcohol and was missing work secondary to alcohol. . . The patient states that he is currently drinking two to three beers per week which was substantiated by his wife."
8. Chief Complaint: " I've got to stop drinking or it's going to kill me." History of present illness: "The patient has a long history of alcohol dependence. He's been in two prior chemical dependency programs. . . The patient has been under my care since December 1993. At that time, the patient presented with . . . and alcohol use. . . The patient was totally abstinent from alcohol for four weeks at that point. . . During the past two weeks, the patient had resumed using alcohol. He's begun drinking 6-12 beers on a daily basis. Since resuming alcohol use, the patient has become dysphoric, increasingly anxious and irritable. He's gotten in several verbal arguments with his wife and has gotten dysphoric enough that he has thought about not going to work." Admit and discharge diagnosis: alcohol dependence.
9. Applicant reported his drinking history since his June 1992 interview: "From approximately June 1992 until arch 1994, I was drinking at least two cases of beer per week. My consumption of alcohol during that time did cause me

some personal problems in that my wife and I separated--we are now back together. From a professional standpoint, I missed quite a lot of work during that time period because of my drinking. . . Since my release from [1994 hospital] in March 1994, I have not consumed an alcoholic beverage. I am [illegible] in meetings of Alcoholics Anonymous. I have been 'dry' for more than one year now. I do not intend to drink alcoholic beverages in the future."

10. Presenting problem: ". . . [Applicant] reports having relapsed in use of alcohol during the past four weeks. He states that he has been using this to calm down. The patient reports experiencing marital discord." The treatment records reflect that Applicant had only gone to AA once or twice.