



**DEPARTMENT OF DEFENSE
DEFENSE OFFICE OF HEARINGS AND APPEALS**



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| In the matter of: |) | |
| |) | |
| SSN: |) | ISCR Case No. 07-01494 |
| |) | |
| Applicant for Security Clearance |) | |

Appearances

For Government: Caroline Jeffreys, Esquire, Department Counsel
For Applicant: Pro Se

March 26, 2008

Decision

HENRY, Mary E., Administrative Judge:

Applicant submitted his Security Clearance Application (SF 86), on June 28, 2005. On September 19, 2007, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) detailing the security concerns under Guidelines E, G, and J for Applicant. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive), and the revised adjudicative guidelines (AG) promulgated by the President on December 29, 2005, and effective within the Department of Defense for SORs issued after September 1, 2006.

Applicant acknowledged receipt of the SOR on September 26, 2007. He answered the SOR in writing on October 31, 2007, and requested a hearing before an Administrative Judge. DOHA received the request on November 5, 2007. Department Counsel prepared a notice to proceed on December 18, 2007, and I received the case assignment on December 27, 2007. DOHA issued a notice of hearing on January 22, 2007, and I convened the hearing as scheduled on February 11, 2007. The government

offered Exhibits (GE) 1 through 6, which were received without objection. Applicant submitted one exhibit (AE), which was received without objection. Applicant and four witnesses testified on his behalf. DOHA received the transcript of the hearing (Tr.) on February 27, 2008. I held the record open for the submission of additional matters. He timely submitted two exhibits AE B and C, which were admitted without objection. The record closed on February 25, 2008. Based upon a review of the case file, pleadings, exhibits, and testimony, eligibility for access to classified information is granted.

Procedural and Evidentiary Rulings

Notice

Correspondence in the file indicates that Applicant received the hearing notice on February 4, 2008. At the hearing, he indicated that he received the hearing notice at home within a week of January 22, 2008, the date of the notice. I advised Applicant of his right under ¶ E3.1.8 of the Directive to receive the hearing notice 15 days before the hearing. Applicant affirmatively waived his right to 15 days notice. (Tr. at 8-9.)

Findings of Fact

In his Answer to the SOR, dated October 31, 2007, Applicant admitted the factual allegations in ¶¶ 1.a - 1.c, 1.e, 3.a and 3.b of the SOR, with explanation. He denied the factual allegations in ¶¶ 1.d, 1.f, 2.a, and 3.c of the SOR.¹

Applicant, who is 33 years old, works for a Department of Defense contractor. The contractor hired him as procurement coordinator and has promoted him two levels since he started working in June 2005. Prior to this employment, Applicant worked in manufacturing companies where he rose to managerial positions.²

Applicant married in November 1999. He and his wife divorced in March 2002. After his divorce, his life “rolled downhill” for several years. More recently, he has become involved in his church and in bowling. His current girlfriend gave birth to his daughter in December 2007.³

Applicant began drinking at age 18, towards the end of high school. He initially drank once a month. His drinking accelerated when he began dating his former wife. He and former wife partied frequently before and after they married. They often went to clubs on Fridays and Saturdays, where they drank and danced for an evening. In July 1999, he, his future wife, and his future brother-in-law entered a nightclub, planning to

¹Response to SOR, dated October 31, 2007.

²GE 1 (Applicant’s security clearance application (SF-86)) at 1-2; Tr. at 18-20.

³GE1, *supra* note 2, at 4; Tr. at 23-24.

celebrate the future brother-in-law's birthday. His future brother-in-law got into a fight when they were at the club. He pulled his future wife out of the way of the fight. He tried to pull his future brother-in-law out of the fight. The bouncers threw all three out of the club. He felt unfairly treated by the bouncers and tried to explain his side of the story to the police. The police declined to listen to his story and told him to walk away. The police officer then said "If you say one more word, I will arrest you." Applicant responded "For what?" The police arrested and charged him with disorderly conduct and refusal to obey a lawful order. He drank four beers before going to the club, but none at the club. He denies any misconduct at the club. The court convicted him of disorderly conduct and placed him on probation for one year.⁴

After he married, he and his former wife continued to drink and party on a regular basis, particularly on Friday and Saturday evenings. In March 2001, he started drinking in the afternoon at a pub with the husband of a friend of his former wife while waiting for the wives. His former wife and her friend arrived at the pub around 7:00 p.m. They wanted to go out to a night club. He acknowledges that because of his alcohol consumption, he was in no condition to go out. However, because his former wife wanted to go out dancing and drinking, he went. Later that evening, he and his former wife got in an argument. They left the nightclub and returned to their car. She refused to drive. They argued more, then she jumped out of the car and ran down the street. He sped out of the parking garage and started looking for her. The police observed his driving and stopped him. He failed a sobriety check and the police charged him with driving while intoxicated (DWI). The court convicted him of DWI, fined him, placed him on one year of unsupervised probation, and directed him to attend the first offenders program. He attended the first offenders program, paid the fines, and successfully completed probation. No professional diagnosed him as alcohol dependent or as an alcohol abuser at this time. He also attended four or five alcoholics anonymous (AA) meetings, but stopped going to the meetings because he did not find the program beneficial.⁵

In late 2002, Applicant called the police and requested a police officer come to the marital home because his former wife, who was not living in the marital home, wanted to take items from their house. The police arrived, provided advice to both, then left without making an arrest. In the incident report, the police noted that this incident did not involve physical violence or threats. In February 2003, while trying to resolve issues related to selling this house, Applicant returned to the marital home where his former wife now lived and he did not. He knocked on the front door several times, but she refused to answer the door. He called her on the phone, but did not speak to her. He had keys to the house, but did not use the keys to enter the house. Instead, after five minutes, he left. His former wife called the police, alleging threatening phone calls. The police did not talk with him, but filed a criminal complaint and asked the court to issue a

⁴Response to SOR at 2; GE 4 (Answers to Interrogatories) at 3; Tr. at 26-29, 57-58.

⁵GE 2 (United States Department of Justice, Federal Bureau of Investigation records) at 2; GE 3 (Answers to Interrogatories) at 8; Tr. at 24-25, 31-33, 62-63.

criminal summons. The police never served Applicant with the summons. He never heard the telephone message. He denies making threats when he called his former wife.⁶

A short time after the above incident, while offering condolences to his former wife and her family over the death of a close family member, his former wife started discussing some of the issues related to the sale of the house. Applicant declined to go to a financing company the next day as his former wife requested. Instead, a few days later, he finally agreed to meet his former wife at a financing company and to sign the deed to house, which he did. As he left the financing company, his former wife's boyfriend attacked him and beat him up. He received treatment for his injuries at the hospital. The investigating police officer refused to take any action against his attacker.⁷

Applicant called a friend in the police department, and asked for assistance in arresting his former wife's boyfriend for the attack on him. During this conversation, Applicant's friend determined that a warrant for Applicant's arrest existed. The court issued a warrant for failure to appear at a hearing on the threatening calls charge. Applicant hired an attorney, who had the warrant quashed. He appeared for a hearing in May 2003. Although his former wife never called the police to report threats or violence against her and the police never arrested him for domestic violence during his marriage, based on her evidence asserting violence during their marriage, the court issued a protective order, effective for five years, directing Applicant to remain at least 25 feet from his former wife. The order ends in two months. Applicant has not violated this order. He stays away from his former wife. By so doing, he avoids trouble.⁸

Applicant completed his security clearance application (SF-86) in June 2005. He listed the DWI in 2001 and the 2003 protective order. He also acknowledged unpaid debts and an employment termination. He did not list his 1999 arrest because he forgot. His failure to list this arrest is not an issue in this case because it is not alleged as a security concern in the SOR. Moreover, his statement about forgetting to list the 1999 arrest is credible.⁹

In March 2006, spring volleyball began. Prior to a 9:00 p.m. game, Applicant drank a couple of beers with friends, then attended the game. After the game, he drank a couple of more beers with friends. He decided to drive home, a decision he now acknowledges was a poor decision. He sped through a yellow light. The police observed this action and pulled him over for speeding. Because the officer smelled alcohol, he

⁶Response to SOR at 3, 10-11; GE 4, *supra* note 4, at 4; Tr. at 42-46, 79.

⁷GE 4, *supra* note 4, at 4-6; Tr. at 49-53.

⁸*Id.*

⁹GE 1, *supra* note 2; SOR.

conducted field sobriety tests, which Applicant failed. The police officer issued a DWI citation.¹⁰

Immediately after his arrest, Applicant contacted a licensed independent social worker about counseling. He realized that alcohol was controlling his life. He began counseling with the social worker shortly after his first contact. Initially, he met with her once a week. After several weeks, he started meeting with her less frequently unless he needed additional counseling time. He grew up with alcohol in the house. He thought it was normal to drink and have problems because of alcohol consumption. He considers himself an alcoholic. The March 2006 DWI opened his eyes about the effects alcohol was having on his life. He no longer goes to clubs or bars. He has not consumed any alcohol since that date as he does not want alcohol to interfere with his life. He has no need to drink. When he drank, he made bad decisions.¹¹

The social worker testified on behalf of Applicant. She confirmed that he contacted her in early April 2006 on his own initiative, and not at the direction of the court. From the beginning of their meetings, Applicant viewed their counseling sessions as an opportunity to change his views on alcohol use. She described him as forthright in his discussions about his drinking habits and as taking responsibility for his drinking. She later provided monthly reports to his probation officer, advising that Applicant was maintaining his sobriety. She considers Applicant an alcohol abuser. She focuses on relapse prevention by dealing with the underlying issues that relate to alcohol abuse and looks at triggers. She does not believe that Applicant is at risk for a relapse as he does not crave alcohol and because he lives with a family member who drinks, he solidified his view on sobriety.¹² She describes Applicant as a social drinker, who changed the his social situations from clubbing and drinking to church and bowling. This change is a positive for no relapse.

Applicant reported his DWI arrest to his facility security officer (FSO) and his human resource contact within a week of his March 2006 arrest. The FSO testified that she filed the adverse information report in September 2007 after she received all the documentation regarding Applicant's arrest, court hearing, conviction, counseling, and a final determination from the court on all issues related to his March 2006 arrest. She advised Applicant to be honest during the interview with the investigator and answer exactly what was asked of him. She did not recall telling him not to disclose his arrest and didn't say anything to him about not volunteering information. Applicant provided her with all information she requested about his arrest.¹³

¹⁰GE 5 (Court record on March 2006 DWI); Tr. at 34-37.

¹¹AE A (Report of Licensed Social Worker, dated February 11, 2008) at 1; GE 3, *supra* note 5, at 5, 15; Tr. at 38-40, 58, 63-65, 67, 70-71, 85-88.

¹²Applicant purchased a house next door to his parents. His father is an alcoholic. Tr. at 70.

¹³GE 6 (Adverse Information report, dated April 4, 2007; Tr. at 107-117.

The human resource contact testified that the adverse information report was not filed immediately because they were waiting for all the documents related to his arrest and court proceedings. She met with Applicant and discussed the investigative interview process. She could not remember if she told Applicant not to disclose his DWI arrest to the investigator. She told him if the arrest was brought up he should disclose it. Her reason for providing this guidance to Applicant was that they did not have all the information and papers related to his arrest and court proceedings. Applicant complied with her request for information about his arrest.¹⁴

In September 2006, Applicant met with the security investigator. At this time, he discussed the negative incidents report in his SF-86 and volunteered information about his 1999 arrest for disorderly conduct. He did not volunteer any information about his March 2006 DWI arrest. He denies telling the investigator that he had no other incidents with law enforcement and that the investigator asked if he had any other incidents or charges not already discussed. The investigator's report states "[Applicant] has no other incidences with law enforcement. Whatsoever." The statement in the investigative report does not make clear whether Applicant made this statement or the investigator assumed this fact from Applicant's failure to mention the 2006 DWI.¹⁵

Applicant appeared in court in December 2006 for a hearing on his March 2006 DWI. Applicant pled guilty to an amended charge of DWI first offense and to reckless driving. The court sentenced him to 90 days in jail, which it suspended, 24 hours of community service, one year of supervised probation, participation in a victim impact panel program, and directed the installation of an interlocking device on his car (if it detects alcohol, the car won't start). Applicant completed all the terms of his sentence. Thus, he did not serve any jail time.¹⁶

Applicant's manager testified on his behalf. He described Applicant as very competent in his job. Applicant works very hard, has a strong work ethic, is very responsive, and is very goal oriented. He finds Applicant reliable and trustworthy. Applicant has not used alcohol at work nor has he missed time from work because of alcohol. Since March 2006, Applicant's performance has improved as he is more proficient and knowledgeable. He has been promoted two levels.¹⁷

The FSO describes Applicant as a good employee, who puts in additional hours to get the work done. They have become good friends outside of work. She describes him as a gentle, kind and friendly person with high morals. She has never seen him lose his temper. The human resource contact describes him as a hard worker, willing to take on extra duties. He is honest and sincere. He has not lost his temper at work,

¹⁴Tr. at 131-132, 134, 136, 138, 143.

¹⁵GE 4, *supra* 4, at 3; Tr. at 41-42, 73-75, 77.

¹⁶GE 5, *supra* 10; Tr. at 37.

¹⁷AE B (Applicant's performance evaluation, dated December 20, 2007); Tr. at 96-103.

despite a tense work environment. Management has not advised her of any work-related stress issues. His law enforcement friend states that he is a person of high moral values and he is trustworthy. He is an asset to his employer.¹⁸

Policies

When evaluating an Applicant's suitability for a security clearance, the administrative judge must consider the revised adjudicative guidelines (AG). In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an Applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. The administrative judge's over-arching adjudicative goal is a fair, impartial and common sense decision. According to AG ¶ 2(c), the entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." The administrative judge must consider all available, reliable information about the person, past and present, favorable and unfavorable, in making a decision.

The protection of the national security is the paramount consideration. AG ¶ 2(b) requires that "[a]ny doubt concerning personnel being considered for access to classified information will be resolved in favor of national security." In reaching this decision, I have drawn only those conclusions that are reasonable, logical and based on the evidence contained in the record. Likewise, I have avoided drawing inferences grounded on mere speculation or conjecture.

Under Directive ¶ E3.1.14, the Government must present evidence to establish controverted facts alleged in the SOR. Under Directive ¶ E3.1.15, the Applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." The Applicant has the ultimate burden of persuasion as to obtaining a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the 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, rather than actual, risk of compromise of classified information.

¹⁸AE C (Letter, dated February 9, 2008); Tr. at 106-107, 130.

Section 7 of Executive Order 10865 provides that 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.” See *also* EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

Analysis

Guideline G, Alcohol Consumption

AG ¶ 21 expresses the security concern pertaining to alcohol consumption, “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual's reliability and trustworthiness.”

Under AG ¶ 22, the following disqualifying conditions could raise a security concern in this case:

(a) alcohol-related incidents away from work, such as driving while under the influence, fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent;

(c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed as an alcohol abuser or alcohol dependent; and

(e) evaluation of alcohol abuse or alcohol dependence by a licensed clinical social worker who is a staff member of a recognized alcohol treatment program;

Applicant received two DWIs for driving after drinking. After his first DWI, he continued to drink and drive. His alcohol consumption significantly increased when he started dating his former wife. He continued to consume significant amounts alcohol after they married and after their divorce. Although he attended several alcohol program, he has never been formally diagnosed as an alcohol dependent. He considers himself an alcoholic and his counselor, a licensed independent social worker, believes him to be an alcohol abuser. The government has established that the above disqualifying conditions raise a security concern.

AG ¶ 23 provides conditions that could mitigate security concerns:

(a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;

(b) the individual acknowledges his or her alcoholism or issues of alcohol abuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence (if alcohol dependent) or responsible use (if an alcohol abuser);

(c) the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress; and,

(d) the individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare, has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations, such as participation in meetings of Alcoholics Anonymous or a similar organization and has received a favorable prognosis by a duly qualified medical professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant last consumed alcohol two years ago. After he received his second DWI in 2006, he realized that alcohol was controlling his life and he wanted to change the direction of his life. He sought counseling from a qualified professional. Because he viewed his counseling as an opportunity to change his life, he actively participated in his counseling sessions. He has benefitted from his one-on-one sessions with his counselor. He changed his social life from one of clubbing and drinking to church activities and bowling. With this change, he developed new friends and a new way of life. He continues with his decision not to drink alcohol. His counselor believes he is at low risk for relapse because he does not crave alcohol and lives with or near his father, who continues to drink. He recognizes the detrimental effects alcohol has had on his father and does not want re replicate these problems in his own life. He does not drink when he is around alcohol. He has mitigated the government's concerns about his alcohol consumption.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern pertaining to personal conduct::

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness and ability to protect classified information. Of special interest is any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process.

AG ¶ 16(b) describes conditions that could raise a security concern and may be disqualifying:

(b) deliberately providing false or misleading information concerning relevant facts to an employer, investigator, security official, competent medical authority, or other official government representative;

Applicant met with the security clearance investigator in September 2006. He revealed the 1999 arrest that he had not included on his SF-86. In completing the SF-86, Applicant listed several negative events in his life, including the protective order and his first DWI. His second DWI occurred after he completed his SF-86, but before his meeting with the investigator. He discussed the interview process with his FSO and human resources contact before meeting with the investigator. Since he had told them about his DWI and he seemed to understand that the adverse information report had not been filed, he asked how he should handle this information. Both told him to answer all questions asked. The FSO told him to answer the specific question asked by the investigator. At the hearing, both had memory lapses on the issue of volunteering information about his second DWI. When reviewing the interview process with Applicant, both knew the adverse information report had not been filed and most likely the issue of the second DWI would not come up. From his discussions with both, Applicant believed that he did not have to reveal anything about the second DWI because his case had not yet been resolved in the court system. While Applicant denies deliberately failing to provide the investigator with information regarding his 2006 DWI, he knew that he had received a DWI six months before his interview. The government has established its case.

AG ¶ 17 provides conditions that could mitigate security concerns:

(b) the refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by improper or inadequate advice of authorized personnel or legal counsel advising or instructing the individual specifically concerning the security clearance process. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully.

Applicant's failure to tell the investigator about his 2006 DWI occurred because the FSO and human resources contact provided him with incorrect guidance about revealing the 2006 DWI. The FSO knew the adverse information report had not been filed, and thus, knew that the investigator probably did not know about the 2006 DWI. Applicant became aware of his need to provide information about his 2006 DWI when he received the SOR. As he had done previously with the FSO and human resource contact, he cooperated in providing information regarding the 2006 DWI. Given his openness about his other incidents with law enforcement and his job termination, there is little likelihood that he can be coerced, pressured or exploited because he failed to reveal his second DWI to the investigator. Applicant has mitigated the government's security concerns under Guideline E, which is found in favor of Applicant.

Guideline J, Criminal Conduct

AG ¶ 30 expresses the security concern pertaining to criminal conduct, “Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.”

AG ¶ 31 describes conditions that could raise a security concern. The following conditions may be disqualifying:

- (a) a single serious crime or multiple lesser offenses;
- (c) allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted;

The police arrested and charged Applicant with disorderly conduct and failure to obey a lawful order in 1999. In 2003, the police sought an arrest warrant based on allegations of domestic violence. Although the police never arrested him on the warrant, he eventually appeared at a court hearing. At the conclusion of the hearing, the court entered a protective order in his former wife's favor. These disqualifying conditions apply.

Under AG ¶ 32, the following conditions could mitigate security concerns:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (c) evidence that the person did not commit the offense; and
- (d) there is evidence of successful rehabilitation; including but not limited to the passage of time without recurrence of criminal activity, remorse or restitution, job training or higher education, good employment record, or constructive community involvement.

His arrest for disorderly conduct is more than eight years old. The protective order is nearly five years old. Applicant has not violated the order, which expires in two months. Both of these incidents involved activities with his former wife and the 1999 arrest also involved alcohol use. He stays away from his former wife. By so doing, he has little chance of getting involved in any altercations with her. His decision not to drink has impacted his life positively. His social patterns do not involve the use of alcohol and his new friends do not drink. He chose a new lifestyle which does not involve alcohol. He changed his life because he understood his alcohol consumption was causing him too many problems. He made bad decisions after drinking and wanted to change, which he has. He works steadily and is well-respected at his job.

Concerning the allegation of domestic violence and based on his demeanor at the hearing, Applicant credibly testified that he did not threaten his former wife. The record is devoid of any evidence of domestic violence during his marriage or any prior allegations or charges of domestic violence. For Title 18 United States Code, Section 1001 to apply, the government must prove that Applicant lied to the investigator. To meet its burden of proof, the government must show that Applicant was asked a specific question and that his answer to the question was a lie. This proof is lacking in this case because the investigator did not testify and the statement “[Applicant] has no other incidences with law enforcement. Whatsoever” is ambiguous. Applicant has mitigated the government’s security concerns regarding his criminal conduct.

Whole Person Concept

Under the whole person concept, the Administrative Judge must evaluate an Applicant’s eligibility for a security clearance by considering the totality of the Applicant’s conduct and all the circumstances. The Administrative Judge should consider the nine adjudicative process factors listed at AG ¶ 2(a): “(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) extent to which participation is voluntary; (6) the presence or absence of rehabilitation and other permanent 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.” Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept.

I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case. Applicant began drinking sporadically while in high school. When he met his former wife, his drinking increased significantly and was a major part of their relationship. He continued to drink to excess for another four years after his divorce. From 1999 to 2006, the police arrested him on three separate occasions for disorderly conduct or DWI. In addition, the court issued a protective order directing that he stay away from his former wife. After his last DWI, Applicant realized that his alcohol consumption was causing too many problems. He accepted responsibility for his drinking habits and the ensuing problems. He sought and received counseling to help resolve his drinking issues. He changed his lifestyle. He has abstained from drinking alcohol for two years and has no interest in drinking alcohol in the future. He has new friends who do not drink and participates in activities which do not involve alcohol consumption. Since he stopped consuming alcohol, he has not been involved with the police. With his change in attitude about alcohol consumption and his change in lifestyle, there is little likelihood that he will repeat his past misconduct. He stays away from his former wife because he does not want any new problems. He has matured and become a more responsible adult.

Applicant is considered a reliable, dependable and trustworthy employee. He works hard and as a result, he has been promoted. His company and co-workers like and respect him as an individual. He has a new daughter and looks forward to his parental responsibilities. Overall, the record evidence leaves me without questions or doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant mitigated the security concerns arising from his alcohol consumption, personal conduct and criminal conduct.

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:

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|---------------------------|---------------|
| 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 |
| Paragraph 2, Guideline E: | FOR APPLICANT |
| Subparagraph 2.a: | For Applicant |
| Paragraph 1, Guideline J: | FOR APPLICANT |
| Subparagraph 3.a: | For Applicant |
| Subparagraph 3.b: | For Applicant |
| Subparagraph 3.c: | For Applicant |

Conclusion

In light of all of the circumstances presented by the record in this case, it is clearly consistent with national security to grant Applicant eligibility for a security clearance. Eligibility for access to classified information is granted.

MARY E. HENRY
Administrative Judge