



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



In the matter of:

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ISCR Case No. 08-03482

Applicant for Security Clearance

Appearances

For Government: Candace Le'i, Esq., Department Counsel

For Applicant: Bradley P. Moss, Esq.
Mark S. Zaid, Esq.

November 4, 2009

Decision

O'BRIEN, Rita C., Administrative Judge:

Based on a review of the case file, pleadings, exhibits, and testimony, I conclude that Applicant has not mitigated the security concerns raised under the guidelines for alcohol consumption and personal conduct. Accordingly, his request for a security clearance is denied.

Applicant submitted an Electronic Questionnaire for Investigations Processing (e-QIP) on August 9, 2007. After reviewing the results of the ensuing background investigation, adjudicators for the Defense Office of Hearings and Appeals (DOHA) were

unable to make a preliminary affirmative finding that it is clearly consistent with the national interest to grant Applicant's request.¹

On April 1, 2009, DOHA issued to Applicant a Statement of Reasons (SOR) that specified the basis for its decision: security concerns addressed under Guideline G (Alcohol Consumption) and Guideline E (Personal Conduct) of the Revised Adjudicative Guidelines (AG).² Applicant signed his notarized Answer to the SOR on May 6, 2009, in which he admitted all allegations under Guideline G, and all allegations under Guideline E, except allegation 1.n. Applicant requested a decision before an administrative judge. Department Counsel was prepared to proceed on June 8, 2009, and the case was assigned to me on the following day. DOHA issued a Notice of Hearing on June 19, 2009, and I convened the hearing as scheduled on July 9, 2009.

During the hearing, Department Counsel offered four exhibits, Government Exhibits (GE) 1 through 4, which were admitted. Applicant testified and presented the testimony of two witnesses. The documents attached to Applicant's Answer were severed and admitted as Applicant's Exhibits (AE) A through P.³ He offered four additional documents at the hearing, which were marked and admitted as AE Q through T. DOHA received the transcript (Tr.) on July 20, 2009.

Findings of Fact

Applicant's admissions to the SOR allegations are admitted as findings of fact. After a thorough review of the pleadings, Applicant's response to the SOR, and the record evidence, I make the following additional findings of fact.

Applicant is 27 years old and has completed about half the credits required to earn a bachelor's degree (Tr. 101). He is unmarried and has no children (GE 1). Applicant began his employment with a defense contractor in 2004, and currently is an assistant security manager. This is his first application for a security clearance (GE 1; Tr. 101-103).

¹ Required by Executive Order 10865, as amended, and DoD Directive 5220.6 (Directive), as amended.

² Adjudication of this case is controlled by the Revised Adjudicative Guidelines, approved by the President on December 29, 2005, which were implemented by the Department of Defense on September 1, 2006. The Revised Adjudicative Guidelines supersede the guidelines listed in Enclosure 2 to the Directive, and they apply to all adjudications or trustworthiness determinations in which an SOR was issued on or after September 1, 2006.

³ Department Counsel noted at Applicant's hearing that AE B and AE D, which were taken from the ADS treatment record, were incomplete. GE 4 represents the complete treatment records from which these two exhibits are derived. All references to the treatment record, therefore, cite to GE 4 (Tr. 8-9).

Applicant used illegal drugs while in high school and college, from 1999 to 2002. He used marijuana approximately 20 to 25 times for about one year between 1999 and 2000 or 2001, or an average of about twice per month. He used Ecstasy about 20 to 30 times between 1999 and 2001 or 2002, or about once per month. He also purchased Ecstasy two or three times during this period. Applicant noted in his interrogatory response that he made an immature decision when he decided to use illegal drugs, and he did it "to fit in." He has not used illegal drugs since that time, does not associate with persons who use illegal drugs, and has no intent to use them in the future (GE 4 at 2-3, 9).

Applicant began consuming alcohol in 2000, at about the age of 19. His consumption "varied a lot, and it would be like, you know, from one drink to maybe like four drinks, five drinks..." (Tr. 108). In his Answer, he states that "When I did drink, I limited my consumption to ensure that it did not surpass the point of mild intoxication commonly referred to as being 'buzzed.'" (Answer at 2).

Applicant testified that on May 15, 2004, he was at a bar and drank two or three drinks or shots over a period of approximately two hours (Tr. 109). He subsequently was stopped by police and charged with Driving While Intoxicated (AE A). In September 2004, he was found guilty, and sentenced to 30 days incarceration (suspended), attendance at Alcohol Safety Action Program (ASAP), one-year driver's license restriction, (AE A); one-year probation from September 16, 2004 to September 15, 2005 (Answer at 2; GE 4 at 32, 41; Tr. 110). He was required to remain abstinent from alcohol during his probation (Tr. 114-115). He attended ASAP from October to November 2004 (Tr. 168). His probation officer referred him to Alcohol and Drug Services (ADS) for treatment. While there, Applicant attended ADS outpatient group meetings for 1½ hours twice per week from February through June 2005. Applicant's group participation was good, he attended AA 12-step meetings, and his alcohol and drug screenings during this period were negative (AE C; Tr. 113-114).

Applicant testified that he did not realize he was referred to ADS for alcohol treatment (Tr. 166-69). He thought that the ASAP course pertained to his DWI, and the ADS treatment was related to his illegal drug use. He believed the ADS counselor said neither issue was a major concern because the drug use was not recent, and he had stopped drinking alcohol following his DWI. He was angry that he had to attend four months of treatment, and when he complained he said he learned that the treatment was for his drug use. He only found out during the security clearance process that it was for his alcohol use (Tr. 170).

At the hearing, Applicant testified that he was completely honest during the ADS evaluation (Tr. 169). However, he provided conflicting information about when he last consumed alcohol. Applicant reported during the ADS intake interview that on the night of his arrest he drank "3 shots and 3 mixed drinks between 10:30 pm and 12 am" (GE 4 at 27, 41, 104). Yet the intake report notes that,

The client reports the following: His last use of alcohol was 5/15/04, the night of the DWI arrest and he consumed 3 shots and 3 mixed drinks. However, he reported to ASAP that since his arrest he has been drinking 1-2 times a week, 3-4 mixed drinks. (GE 4 at 40).

Applicant's statements during treatment appear contradictory. He reported that his school, home life, and relationships got "messed up" when he was using alcohol. He also admitted that he had a problem with alcohol (Tr. 38). But he also stated that he did not need treatment because "he had stopped drinking and had been clean from alcohol and drugs for 9 months." He denied having any guilt or concern, and stated that he would accept a recommendation for outpatient but not residential treatment. He also stated that "If he accepts a recommendation, it will be only because he is ordered to do so as a condition of his probation." (GE 4 at 30, 36, 38-39).

During the AA meetings he attended while in treatment, he did not admit having an alcohol problem:

DEPARTMENT COUNSEL: Right. And as part of the AA meetings, you have to acknowledge that you have a problem with alcohol.

APPLICANT: Not true. You can attend the AA meetings, and you can be an observer...But you are not required to actually participate and stand up and say, "Hi, my name is So and So, and I am So and So."

DEPARTMENT COUNSEL: So did you ever do that?

APPLICANT: No. (Tr. 157-158)

He stopped attending AA meetings after completing treatment in June 2005 (Answer at 4). At the hearing, he said the DWI conviction was a problem, but not his alcohol use: "Do I think that because of my alcohol consumption I had a problem? No, because if that was the case, then I would never have began drinking again. So I really think that had more to do just with things that I was surrounding myself around, things like that." (Answer at 5; Tr. 122-124, 159-160, 173).

At his discharge from ADS in June 2005, Applicant was diagnosed as alcohol-dependent based on symptoms including tolerance, using more alcohol than anticipated, withdrawal symptoms, attempts to reduce use, and continued use despite physical/psychological consequences (GE 4 at 106, 108-109). Applicant testified that he was not informed at discharge that he was alcohol-dependent, or that he should remain abstinent, and learned of his diagnosis in 2008, when he completed his DOHA interrogatories: "I was not -- I guess I didn't know that I was required to be abstinent. I thought, if anything, it was a recommendation, and really, I don't recall them ever saying anything about it at the time of the discharge. It is such a long time ago." (Tr. 115-116, 119). The three recommendations in the discharge report were to "maintain sobriety,

employment and living arrangement.” The report described his status at discharge as, “abstinent, has a positive attitude, attends group, attends AA meetings, is gainfully employed and lives with family.” (GE 4 at 111-112). Applicant testified that he did not drink alcohol during his probation from September 2004 to September 2005. He also stated that he remained abstinent for an additional year, from September 2005 to about October 2006. In November 2006, he had a drink at his birthday party. He may have had one drink at a party in December 2006. He was then abstinent for another year, until about November 2007.

Applicant was evaluated at ADS again in May 2009. Applicant met with a counselor for approximately one hour. The counselor had access to Applicant's treatment records. (Tr. 170-71). Her report indicates that Applicant “has applied for a security clearance and his dependency diagnosis is being viewed negatively.” His diagnosis form states that his “alcohol dependence is in full, sustained remission.” Treatment was not recommended based on Applicant’s “self-reported minimal use of alcohol, i.e., one drink or less, four times a year and lack of new or continued life area impairments.” (AE Q, R).

Between 2001 and 2006, when Applicant was 19 to 24 years old, he was cited for ten traffic infractions,⁴ which included speeding, reckless driving, driving with a suspended license, operating an uninspected vehicle, failure to obey traffic signs, operating an unlicensed vehicle, and unauthorized use of a disabled placard. In eight of these cases, Applicant was found guilty and fined; in two cases, he was found guilty of reduced charges. In addition, he was arrested in 2005 for Resisting Arrest and Trespassing; he challenged these charges, and the Resisting Arrest charge was dismissed. He was found guilty of a reduced charge of Disturbing the Peace. On June 27, 2009, Applicant completed an online driving safety course (Answer at 13-14; GE 2, 3; AE E-I, K-O, S).

Applicant completed a security clearance application on August 9, 2007. Section 25 asked if, within the previous seven years, his use of alcoholic beverages had resulted in treatment or counselling. Applicant answered “Yes,” and added, “These were classes I had to attend for my DUI. Since my involvement with these classes and my DUI, I do not drink alcoholic beverages anymore.” At the hearing, Applicant explained his entry in his security clearance application as, “I never intentionally meant to say that I do not drink alcohol anymore. At the time when I completed the document, I was not drinking at all. That is exactly what I meant.... It wasn't that I was trying to say that I had not drank at all. It is just that I had not drank at that time, and it had been a while since I had drank.” (Tr. 127-128).

In September 2007, Applicant was interviewed by an agent of the Office of Personnel Management (OPM). Applicant told the agent that he meant to say on the application that he rarely consumes alcohol (GE 1, 4 at 23). When asked at the hearing what he told the agent, he testified, “Basically, when he was saying -- he said, basically verbatim, he had told me what I wrote in my eQIP application, and what I explained to

⁴ This number does not include his arrest for Driving While Intoxicated in June 2004.

him was at the current time of my eQIP application, I was conveying I was not drinking at all, but I may have a drink.” (GE 4 at 23; Tr 130). During his security interview, Applicant made several statements that conflicted with information he provided to his alcohol counselors or during his hearing. Among the statements Applicant made to the investigator, under oath, were the following:

- that he started drinking socially after his probation ended in September 2005, although in his Answer he states that his alcohol consumption started after the end of his treatment in June 2005 (GE 4 at 23; Answer at 5).
- that he had no citations after July 2005, although he was cited for infractions in August 2006 (GE 4 at 22);
- that he had four drinks on the night of his DWI (GE 4 at 27), although he told the counselor that it was six drinks (GE 4 at 27), and testified at the hearing that it was two or three drinks (Tr. 109);
- that alcohol has not had negative effects on his life, and that he never abused it (GE 4 at 22), despite his DWI; the negative effects it had on his home life, studies, and relationships; and his alcohol treatment;
- that he did not drink alcohol when he was under the legal age (GE 4 at 22), although he admitted to underage drinking in his Answer (Answer at 1).

At his hearing, Applicant's friend, who has known him since childhood, testified that Applicant is focused on his job, does not associate with the “party” group that he used to associate with, and has matured in the past several years (Tr. 29-33). Applicant's current supervisor, the company Facility Security Officer (FSO), also testified. He has known Applicant since August 2004. He has been promoted twice. Applicant handles proprietary and confidential information. He can be counted on to run the department and make decisions in the supervisor's absence. Applicant is dependable, prompt, and trustworthy, and he did not believe that Applicant's “minor traffic offenses” would be a problem in obtaining a clearance (Tr. 60). He knows Applicant outside of work, and has seen Applicant drink one or two drinks on social occasions, and never saw him become intoxicated. If he has any alcohol, arrangements are made for another driver or his girlfriend to take him home (Tr. 81). Based on his talks with Applicant, he believes that the treatment program found that Applicant was not alcohol dependent (Tr. 66-67; 81-82). Applicant mentioned the following reasons why he went to treatment:

...to follow up and close some things and what not to make sure that he had the proper paperwork and what not, because he realized how this was really a career breaking decision for him and what not. So he wanted to make sure he had all the i's dotted and t's crossed and what not. So he did, in fact, go, I guess, to get some documentation to bring to the court that showed he wasn't, in fact, alcohol dependent (Tr. 82-83).

Applicant also submitted letters from his mother and his girlfriend. His girlfriend has known him for two years. She attests to Applicant's maturity and efforts to avoid situations or people that would be negative influences. She stated that he currently drives responsibly. His mother's letter explained that she was responsible for license tag renewal in 2004 and 2006, and Applicant's citation for expired tags was due to her mistake. She also noted that when Applicant used illegal drugs and alcohol in high school and college, his grades declined, their relationship deteriorated, and he "started to get into trouble." She noted that after the DUI, he improved and became more mature and focused⁵ (AE J, P).

Policies

Each security clearance decision must be a fair, impartial, and commonsense determination based on examination of all available relevant and material information, and consideration of the pertinent criteria and adjudication policy in the Revised Adjudicative Guidelines (AG).⁶ Decisions must also reflect consideration of the "whole person" factors listed in ¶ 2(a) of the Guidelines.

The presence or absence of a disqualifying or mitigating condition is not determinative of a conclusion for or against an applicant. However, specific applicable guidelines should be followed whenever a case can be measured against them as they represent policy guidance governing the grant or denial of access to classified information. In this case, the pleadings and the information presented by the parties require consideration of the security concerns and adjudicative factors addressed under the cited guidelines.

A security clearance decision resolves only the questions of whether it is clearly consistent with the national interest⁷ for an applicant to either receive or continue to have access to classified information. The government bears the initial burden of producing admissible information on which it based the preliminary decision to deny or revoke a security clearance for an applicant. Additionally, the government must be able to prove controverted facts alleged in the SOR. If the government meets its burden, it then falls to the applicant to refute, extenuate or mitigate the government's case. Because no one has a "right" to a security clearance, an applicant bears a heavy burden of persuasion.⁸

A person who has access to classified information enters into a fiduciary

⁵ Applicant also submitted a letter from his father, in which he disavowed statements attributed to him by the OPM investigator. However, the record evidence does not include information about such statements (AE T).

⁶ Directive 6.3.

⁷ See *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁸ See *Egan*, 484 U.S. at 528, 531.

relationship with the government based on trust and confidence. Therefore, the government 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.⁹

Analysis

Guideline G, Alcohol Consumption

The security concern about alcohol consumption is that “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.” (AG ¶ 21).

Of the seven conditions listed at AG ¶ 22, the following may be disqualifying 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;

(d) diagnosis by a duly qualified medical professional (e.g., physician, clinical psychologist, or psychiatrist) of alcohol abuse or alcohol dependence;

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program

Applicant consumed alcohol, sometimes to the point of intoxication, between 2000 and 2004. His family life, relationships, and studies suffered during the period when he was drinking significant amounts of alcohol. In 2004, he was arrested when he decided to drive after becoming intoxicated. These facts support application of AG ¶¶ 22(a) and 22(c).

In June 2004, Applicant was arrested for DWI. He was sentenced, *inter alia*, to one year of probation, attendance at ASAP, and alcohol treatment. Applicant was also ordered to remain abstinent during his one-year probation. He completed six months of

⁹ See *Egan*; Revised Adjudicative Guidelines, ¶ 2(b).

outpatient treatment from January to June 2005. His intake and discharge report shows a diagnosis of alcohol dependence. At discharge, it was recommended that Applicant maintain the sobriety he had established during treatment. Applicant has resumed drinking since completing his treatment. AG ¶ 22(d) and 22(f) apply.¹⁰

AG ¶ 23 lists four mitigating conditions, of which the following relevant:

(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);

(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's alcohol-related behavior was frequent: he consumed alcohol for several years, and drank to the point that he used poor judgment by driving while intoxicated. Although his DWI is not recent, and he has reduced his alcohol consumption, the fact that he continues to drink alcohol raises concerns that negative alcohol-related events may recur in the future. In addition, the fact that he has failed to comply with the recommendation to abstain reflects poorly on his current judgment. AG ¶ 23(a) does not apply.

Applicant receives some mitigation under AG ¶ 23(b), as he successfully completed alcohol treatment. However, his conduct indicates that he has never accepted the fact that he had a problem with alcohol: he never admitted it during any AA meetings, and he stated that he would only accept the counselor's recommendations because he was ordered to do so as a condition of probation. Even

¹⁰ The DOHA Appeal Board has held that when interpreting the term "duly qualified medical professional," administrative judges should construe it broadly and be guided by common sense. Moreover, the medical professionals that can be considered are not limited to the examples listed at AG ¶ 22(d). Applicant was treated by counselors employed by an alcohol treatment center. The intake and staffing reports and the January 2005 diagnosis form were signed by a registered nurse who is also a certified substance abuse counselor (CSAC). I conclude that Applicant's diagnosis falls under AG ¶ 22(d). See ISCR Case No. 07-00558 at 5 (App. Bd. Apr 7, 2008).

as recently as his hearing, he said that his problems were caused not by alcohol. His testimony that he did not understand that the ADS treatment was for alcohol use is not credible, as he was participating in AA meetings during treatment. Finally, his current occasional alcohol consumption would be mitigating only if he had been diagnosed as an alcohol abuser. But because his diagnosis was alcohol dependence, AG ¶ 23(b) requires that he abstain from alcohol consumption. The mitigation available for completing court-ordered alcohol treatment is limited because Applicant has not accepted his diagnosis of alcohol dependence, and has failed to follow the recommendation to abstain from alcohol use.

Applicant receives partial mitigation under AG ¶ 23(d) because he completed the court-ordered alcohol treatment program, and recently resumed participation in AA. However, Applicant failed to meet other elements required under this mitigating condition. He moderated his drinking but did not follow his counselor's recommendation to remain abstinent. He stopped participating in AA as soon as the treatment ended, and only resumed on May 6, 2009, the date he completed the Answer to the SOR. It appears that he resumed AA attendance as a response to the security clearance process, rather than as a good-faith effort. Finally, his recent diagnosis of alcohol dependence in sustained remission must be viewed in light of the fact that the counselor arrived at her opinion solely based on a one-hour meeting at which Applicant self-reported his alcohol usage, and the evidence shows Applicant has misrepresented facts related to his alcohol use numerous times during the treatment and the security clearance process. The evaluation also provides no prognosis for the future, as AG ¶ 23(d) requires. Taking all the facts and circumstances together, the limited mitigation available under Guideline G is insufficient to overcome Applicant's disqualifying conduct.

Guideline E, Personal Conduct

AG ¶ 15 expresses the security concern about 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.

The Guideline E allegations implicate the following disqualifying conditions under AG ¶ 16:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations,

determine employment qualifications, award benefits or status, determine security clearance eligibility or trustworthiness, or award fiduciary responsibilities;

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information;

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the person may not properly safeguard protected information. This includes but is not limited to consideration of...(3) a pattern of dishonesty or rule violations.

Applicant used marijuana and ecstasy from 1999 to 2001 or 2002. As his usage occurred seven years ago, it is not recent, and is not sufficient to be disqualifying under the drug abuse guideline. However, it does demonstrate conduct that falls under Guideline E because it reflects questionable judgment and unwillingness to abide by the law. AG ¶ 16(c) applies.

Over a five-year period spanning 2001 to 2006, Applicant committed ten traffic violations, and was also charged and fined for disturbing the peace. Taken together, his repeated violations demonstrate that Applicant places his own desires above the law. While the traffic infractions do not fall under any specific guideline, they raise serious concerns about Applicant's judgment, and constitute a pattern of conduct showing his willingness to disregard rules. AG ¶ 1 (d)(3) applies.

The SOR also alleges that Applicant deliberately falsified information that he provided on his security clearance application, which implicates AG ¶ 16(a). Applicant signed a certification that the information he provided was true, but stated on his application that, "Since my involvement with these classes and my DUI [*sic*], I do not drink alcoholic beverages anymore." Applicant is an intelligent, articulate man and used plain, straightforward language that can mean nothing other than that he had stopped consuming alcohol as of the date of his DWI. But, in fact, he did begin to drink alcohol again either after his treatment ended in June 2005 (see Answer) or after his probation ended in September 2005 (see hearing testimony). His explanation during his interview

that he meant to say he that he rarely used alcohol is not credible. Applicant deliberately falsified his security clearance application, and AG ¶ 16(a) applies.

Mitigating condition AG ¶ 17(c) is relevant:

the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment.

A significant amount of time has passed since Applicant's drug use – approximately seven years – and he has not engaged in such abuse since 2002. His drug use is mitigated. However, in 2001, at about the time his drug use ended, his series of civil infractions began. They have continued up to 2006, just three years ago. On average, he was involved in some kind of infraction about twice each year. Although most of these infractions are not criminal in nature, they do demonstrate Applicant's inability or unwillingness to abide by rules, such as traffic laws, and raise doubts about his good judgment. AG ¶ 17(c) cannot be applied to these infractions. It also does not mitigate Applicant's falsification, which occurred, not in the distant past, but just over two years ago. Neither is it minor; the security clearance process depends on applicants providing accurate and honest answers to questions posed in security clearance applications. Applicant's failure to be candid in his application casts serious doubt on his trustworthiness.

AG ¶ 17(a) is also relevant to Applicant's falsification:

the individual made prompt, good-faith efforts to correct the omission.

There is no evidence that Applicant informed his supervisor, the FSO, that he had provided false information on his security clearance application. Applicant's falsification surfaced only when he was confronted by the investigator at his interview. AG ¶ 17(a) does not apply.

Whole Person Analysis

Under the whole person concept, an administrative judge must evaluate the Applicant's security eligibility by considering the totality of the Applicant's conduct and all the circumstances. An 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) the 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.

AG ¶ 2(c) requires that the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole person concept. Under each guideline, I considered the potentially disqualifying and mitigating conditions in light of all the facts and circumstances surrounding this case.

Applicant is 27 years old, and began using illegal drugs and consuming alcohol while he was a minor, at about age 19. Applicant was young and immature when he began these activities. His illegal drug use ended in 2001 or 2002, and it is no longer a security concern.

However, Applicant's alcohol use is a concern. He continues to minimize its significance, despite the problems it caused in his home life, his studies, and in his close relationships. In 2004, he drove while intoxicated, was convicted of DWI, served one-year probation, and participated in five months of court-ordered alcohol treatment. He was not committed to AA attendance, and ended it in 2005, when it was no longer required as part of his treatment; his current attendance at AA appears to be primarily a response to the security clearance process. Although Applicant's current alcohol use is occasional, it is a concern in light of his alcohol dependence diagnosis and his alcohol counselor's recommendation that he abstain from any alcohol consumption. His conduct raises doubts about his acceptance and understanding of the condition that his counselor diagnosed.

Applicant was involved in numerous civil infractions between 2001 and 2006, averaging two per year for five years, indicating an inability or unwillingness to abide by the law. Finally, Applicant falsified information he certified as true on his security clearance application; he provided false information to the government investigator while under oath; and he provided false information to his alcohol counselors. Applicant's conduct raises concerns about his maturity, trustworthiness, judgment, and ultimately, his suitability to hold access to classified information.

Applicant has not mitigated the security concerns arising from the alcohol consumption and personal conduct guidelines. Overall, the record evidence fails to resolve the doubts raised about Applicant's suitability for a security clearance.

Formal Findings

Paragraph 1, Guideline G	AGAINST Applicant
Subparagraph 1.a. - 1.c.	Against Applicant
Subparagraph 1.d.:	For Applicant

Subparagraph 1.e.:	Against Applicant
Paragraph 2, Guideline E	AGAINST Applicant
Subparagraph 2.a. - 2.b.:	For Applicant
Subparagraphs 2.c. - 2.n.:	Against Applicant

Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with the interests of national security to allow Applicant access to classified information. Applicant's request for a security clearance is denied.

RITA C. O'BRIEN
Administrative Judge