



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



In the matter of:	)	
	)	
-----	)	ISCR Case No. 09-06824
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Eric Borgstrom, Esquire, Department Counsel  
For Applicant: Thomas Albin, Esquire

November 28, 2011

**Decision**

MARSHALL, Jr., Arthur E., Administrative Judge:

On May 5, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) enumerating security concerns arising under Guideline G (Alcohol Consumption), Guideline H (Drug Involvement), Guideline E (Personal Conduct), and Guideline J (Criminal Activity). DOHA took action under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense (DOD) Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective within the DOD on September 1, 2006.

In a May 20, 2011, response, Applicant admitted all allegations raised under Guideline G and Guideline H, admitted four of the six allegations raised under Guideline E, and admitted two of the three allegations raised under Guideline J. He also requested a hearing before a DOHA administrative judge. DOHA assigned the case to another administrative judge on July 5, 2011. The case was transferred to me on September 28, 2011, for caseload considerations. The parties proposed a hearing date of October 18, 2011. A notice setting that date for the hearing was issued on September 29, 2011. I convened the hearing as scheduled.

Applicant gave testimony, introduced one witness, and was given until November 1, 2011, to submit any documents. The Government introduced eight documents, which were accepted into the record without objection as Exs. 1-8. The transcript (Tr.) of the proceeding was received on October 28, 2011. No post-hearing submissions were offered by the Applicant. The record was closed on November 1, 2011. Based on a review of the testimony, submissions, and exhibits, I find Applicant failed to meet his burden of mitigating security concerns. Clearance is denied.

### **Findings of Fact**

Applicant is a 54-year-old construction mechanic who has worked for the same defense contractor for 35 years. He has earned a high school diploma. Applicant is married to a homemaker. The couple has two grown children. Applicant has held a security clearance for approximately 15 years. He completed at least two previous security clearance applications before submitting a May 2009 application for a security clearance renewal.

Applicant was born in 1957. He first consumed alcohol in the early 1970s, when he was about 13 years old. In 1976, after completing high school, Applicant was hired by his present employer as a laborer. By the early 1980s, he had been promoted to construction mechanic, a position that was both more demanding and more lucrative. He had also tried cocaine, a drug he would use about four more times until 2007.<sup>1</sup> Except for a nine-month-long lateral transfer in 1986, he has continued in that position to date, albeit for a different facility. Due to the nature of his position and his experience, his work entails only nominal supervision. He has always been considered a reliable worker.

Until recently, Applicant's personal and work-related conduct has been without incident. His use of alcohol on weekends, when he sometimes drank to the point of intoxication, increased in about 2006.<sup>2</sup> In April 2007, he started outpatient treatment at a major medical facility for alcohol dependence and cocaine abuse.<sup>3</sup> His relationship with his wife was discussed during the program. He adamantly disagreed, however, with a counselor's suggestion that his relationship with his wife was contributing to his

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<sup>1</sup> Tr. 118-119. At times, Applicant also contributed to the purchase of the drug. Tr. 127.

<sup>2</sup> Tr. 86. "Five years ago, six years ago. Things started to really get out of hand."

<sup>3</sup> As noted in the SOR, Applicant's cocaine use started, or at least continued, after he was initially granted a security clearance and while he was maintaining a security clearance. See, e.g., Tr. 76-79. Although his abuse of cocaine had been limited, he was concerned that it could become a problem. Tr. 129-130. He knew it was an illegal drug. Tr. 118-119.

drinking.<sup>4</sup> In part, Applicant attributes his continued drinking as a reaction to his counselor's questioning about his marital relationship.<sup>5</sup>

In October 2007, he received a ten-day suspension from work for aggressive or loud comments that were thought to constitute threatening conduct. The incident was not alcohol-related. He left his treatment program in November 2007, partly because he continued to be dissatisfied with the counselor.<sup>6</sup> By that point, he had quit using cocaine. However, he continued to use alcohol on weekends, usually at bars. He estimates that, at that time, he drank to intoxication about every other weekend.<sup>7</sup>

In June 2008, Applicant was asked to leave a local bar. He was intoxicated and he insisted that he would not leave without his vehicle. Applicant went for a cup of coffee. When he returned, police officers "ripped [him] out of the vehicle" and he was arrested. Applicant was charged with disorderly conduct, interference with an officer/resisting arrest,<sup>8</sup> illegal possession of a weapon in a motor vehicle, use of drug paraphernalia, and possession of less than four ounces of marijuana.<sup>9</sup> He was ultimately found guilty of driving under the influence (DUI) and creating a public disturbance.

In January 2009, Applicant was arrested and charged with evading responsibility (property damage/injury) and following too closely while driving his vehicle, but was only found guilty of the former charge. Applicant admits that he was angry at another driver at the time, but that his slight impact with the other driver was unintentional.<sup>10</sup> Applicant was not intoxicated at the time, although he had consumed alcohol that day.<sup>11</sup>

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<sup>4</sup> Tr. 111-112. Despite this suggestion, Applicant concedes that his marriage went through a sour spell in the late 2000s, but noted that they have since made their nearly 35-year-long marriage stronger.

<sup>5</sup> Tr. 112.

<sup>6</sup> Tr. 130-131.

<sup>7</sup> Tr. 132.

<sup>8</sup> Tr. 136. Applicant did not want to be physically restrained with handcuffs because of the difficulty in maintaining a behind-the-back arm position. Applicant is approximately 5'11" and about 280-300 pounds. Tr. 153; Ex. 1 (Application, dated May 11, 2009) at 6 of 39.

<sup>9</sup> Tr. 70. The weapon at issue was a "tire checker." Applicant conceded that the marijuana pipe found in his automobile console was from "way back" and the amount of marijuana found was "residue in the pipe." See Tr. 72. He believes it belonged to one of his daughters. Tr. 125. His own marijuana use was limited to his high school years. Tr. 119.

<sup>10</sup> Tr. 105.

<sup>11</sup> Tr. 110, 133-134.

In March 2009, Applicant was in a fight with his wife at a local cocktail lounge. She struck him, upset that he was drinking.<sup>12</sup> He left the bar and she called the police to report that he was intoxicated. He was arrested and charged with operating a motor vehicle under the influence of alcohol/drugs (OUI), speeding, and failure to drive in he proper lane. He spent the night in jail. Applicant was issued a temporary restraining order requiring his separation from his wife. He then went to stay with his mother.

The arrest proved to be a “turning point” for Applicant.<sup>13</sup> After his arrest, he quit using alcohol, briefly separated from his wife, and thought about his life. As for the charges, he was ultimately found guilty of OUI, lost his driver’s license for a year, and was ordered to perform community service.<sup>14</sup> Applicant sought help through his employer’s employee assistance program (EAP) where, with his wife’s support, they also worked on their marriage.<sup>15</sup> Despite his past alcohol abuse, he was not previously known to have had a drinking problem at his workplace.<sup>16</sup> Around this same time, Applicant also started attending Alcoholic’s Anonymous (AA). He continued in AA for about a year.<sup>17</sup> At his own urging, he was prescribed Antabuse (Disulfiram) for about six months during that time.<sup>18</sup> He quit using the medication when he felt it was no longer needed. The longer he was sober, the more supportive his wife became. She often drove him to work while he lacked a driver’s license. Although he concedes that every day is still a struggle, he now believes he has control over his alcoholism.<sup>19</sup> He has spoken with his sponsor about two times in the past year. Applicant reconciled with his wife, upon whom he mostly relies on for support and with whom he attended the hearing. He also finds support through attendance at AA twice a month and by occasional contact with his AA sponsor. He is contrite about his past abuse of both alcohol and drugs.

In May 2009, Applicant completed his most recent security clearance application. On that application, in response to Question 23, he denied having illegally used any controlled substances, including cocaine, in the preceding seven years. He also denied having ever illegally used a controlled substance while possessing a security clearance. To the extent that Applicant had used cocaine and sought treatment for cocaine abuse

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<sup>12</sup> Tr. 68, 87-88.

<sup>13</sup> Tr. 59. Applicant stated that it was at this point he realized that it “was time to stop” using alcohol.

<sup>14</sup> Tr. 64.

<sup>15</sup> Tr. 60.

<sup>16</sup> Tr. 15-30, 80.

<sup>17</sup> Tr. 81-82. Applicant noted, “I still go to this day, off and on. . . . Maybe twice a month.” As for alcohol, he noted, “I think I’ve gotten over that, that I don’t need that in my life anymore. . . .” Tr. 83.

<sup>18</sup> Tr. 122-123.

<sup>19</sup> Tr. 85.

as recently as 2007, both answers were incorrect. Applicant admitted that his answers were incorrect, but denied that his answers were intentionally false. He testified that the 2009 application was his first attempt at the electronic format. In order to speed its completion, he substantially copied his answers by hand to a blank copy of the application from a hard copy of his earlier, non-computer generated applications. He then handed it in for someone else to enter on a computer.<sup>20</sup> In the process of transposing his answers, he did not closely read each of the questions presented thoroughly. He does not recall reviewing the final printed version of the application after it was completed and before he signed it.<sup>21</sup>

## Policies

When evaluating an applicant's suitability for a security clearance, an administrative judge must consider the AG. In addition to brief introductory explanations for each guideline, the AG list potentially disqualifying conditions and mitigating conditions. 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 overarching adjudicative goal is a fair, impartial, and commonsense decision. Under AG ¶ 2(c), this process is a conscientious scrutiny of a number of variables known as the "whole-person concept." The administrative judge must consider all 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.

The Government must present evidence to establish controverted facts alleged in the SOR. An applicant is responsible for presenting "witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by applicant or proven by Department Counsel. . . ." <sup>22</sup> The burden of proof is something less than a preponderance of evidence. The ultimate burden of persuasion is on the applicant.<sup>23</sup>

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

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<sup>20</sup> Tr. 92-96, 99, 114-116. Applicant does not use computers.

<sup>21</sup> Tr. 95-96.

<sup>22</sup> See also ISCR Case No. 94-1075 at 3-4 (App. Bd. Aug. 10, 1995).

<sup>23</sup> ISCR Case No. 93-1390 at 7-8 (App. Bd. Jan. 27, 1995).

Government reposes a high degree of trust and confidence in those 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 safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

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). “The clearly consistent standard indicates that security clearance determinations should err, if they must, on the side of denials.”<sup>24</sup> Any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information.<sup>25</sup>

Based upon consideration of the evidence, Guideline F (Financial Considerations) is the most pertinent to this case. Conditions pertaining to this AG that could raise a security concern and may be disqualifying, as well as those which would mitigate such concerns, are set forth and discussed below.

## Analysis

### Guideline G – 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.<sup>26</sup> In this case, Applicant started drinking alcohol as a teen. While his alcohol consumption was sometimes to the point of intoxication, it did not become problematic until 2006, when his life began to get “out of hand.” While Applicant vehemently disagreed with a counselor’s suggestion in 2007 that issues with his wife might be contributing to his growing alcohol dependence, it is clear that marital discord was a major issue in his life by 2008. In 2009, he hit rock bottom when faced with a serious alcohol-related driving charge and a public marital spat that led to a temporary separation. Such facts are sufficient to raise Alcohol Consumption Disqualifying Conditions AG ¶ 22(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*), AG ¶ 22(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 AG ¶ 22(f)

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<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> AG ¶ 21.

(relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program). Consequently, the burden shifts to Applicant to mitigate related security concerns.

Applicant underwent treatment as an alcohol dependent that ended four years ago in November 2007. He continued to drink on weekends. His continued weekend drinking was often to the point of intoxication and contributed to his June 2008 and March 2009 arrests. In March 2009, he quit using alcohol in an attempt to reconcile his life. With his estranged wife's support, he sought counseling with an EAP program, voluntarily used Antabuse for about six months, and attended AA meetings regularly for one year. He continues to attend AA as needed, about twice a month. He relies on support from his wife, with whom he has reconciled and whose objection to his abuse of alcohol appears to have led to much of their prior marital discord. He also maintains periodic contact with his AA sponsor. He reflects a true understanding of the basic tenets of AA in acknowledging that he is an alcoholic and in noting that battling alcoholism is a constant struggle. Despite this self-awareness, he has been sober since March 2009, signifying nearly three years of sobriety after about three years of self-acknowledged alcohol abuse (2006 through March 2009). He feels that he has his former alcohol abuse under control, noting that he no longer needs alcohol in his life. He is highly content with his current life and marriage. Applicant seems committed to staying sober and not again jeopardizing his life, marriage, or career. Alcohol Consumption Mitigating Conditions AG ¶ 23(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 individual's current reliability, trustworthiness, or good judgement*) and AG ¶ 23(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)*) apply.

Applicant is no longer receiving treatment or pursuing counseling. Moreover, he suffered a relapse after his 2007 treatment. Such facts obviate application of AG ¶ 23(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 AG ¶ 23(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 meeting with [AA] or a similar organization and has received a favorable prognosis by a duly qualified or a licensed clinical social worker who is a staff member of a recognized treatment program*).

## **Guideline H - Drug Involvement**

Use of an illegal drug or misuse of a prescription drug can raise questions about an individual's reliability and trustworthiness, both because it may impair judgment and because it raises questions about a person's ability or willingness to comply with laws,

rules, and regulations.<sup>27</sup> “Drugs” are defined as mood and behavior altering substances, and include drugs, materials, and other chemical compounds identified and listed in the Controlled Substances Act of 1970, as amended, (e.g., marijuana or cannabis, depressants, narcotics, stimulants, and hallucinogens) and inhalants and other substances.<sup>28</sup> “Drug abuse” is the illegal use of a drug or use of a legal drug in a manner that deviates from approved medical direction.<sup>29</sup>

Back in the 1970s, Applicant used marijuana in high school. He used and contributed to the purchase of cocaine about five times between the 1980s and early 2007. In 2008, Applicant was charged for illegal possession of drug paraphernalia and possession of a small amount of marijuana after a marijuana pipe with some residue was found in his vehicle. While he was ultimately not found guilty of the marijuana-related charges, and although it appears the aged marijuana pipe was not his, Applicant’s more recent use of cocaine occurred in the mid to late-2000s – after Applicant first received a security clearance in the mid-1990s. Such facts are sufficient to raise Drug Involvement Disqualifying Condition AG ¶ 25(a) (*any drug abuse*), AG ¶ 25(c) (*illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia*), and AG ¶ 25(g) (*any illegal drug use after being granted a security clearance*). Consequently, the burden shifts to Applicant to mitigate related security concerns.

Applicant’s testimony regarding the origin of the marijuana pipe found in his vehicle in 2008 was both credible and plausible, particularly in light of the fact he has consistently maintained that he has not used that drug since high school. Applicant used cocaine about five times. The last time he used the drug was probably as recently as early 2007. However, while counseling that year was unsuccessful with regard to alcohol, it did help him commit to not using cocaine in the future. He has not used the drug for about four-and-a-half years. He seems committed to staying drug free and there is no evidence that he is a habitue of venues at which drugs are used. Therefore, Drug Involvement Mitigating Conditions AG ¶ 25(a) (*the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment*), AG ¶ 26(b)(3) (*an appropriate period of abstinence*), and AG ¶ 26(b)(2) (*changing or avoiding the environment where drugs were used*) apply with regard to his past association with marijuana paraphernalia and cocaine use, *per se*.

None of these mitigating conditions, however, apply to Applicant’s use of cocaine, a drug he knew to be illegal, while he maintained a security clearance. While AG ¶ 25(a) (*the behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment*), for example, is applicable with regard to his current judgment regarding drugs, it does not discount his knowing use of

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<sup>27</sup> AG ¶ 24.

<sup>28</sup> *Id.* at ¶ 24(a)(1-2).

<sup>29</sup> *Id.* at ¶ 24(b).



an illegal drug well into the 2000s – *after* being entrusted with a security clearance in the 1990s.

### **Guideline E – Personal Conduct**

Security concerns arise from matters of personal conduct because “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.”<sup>30</sup> In addition, “any failure to provide truthful and candid answers during the security clearance process or any other failure to cooperate with the security clearance process” is of special interest.<sup>31</sup> In May 2009, Applicant completed his most recent security clearance application. On that application, he denied having illegally used any controlled substances, including cocaine, in the preceding seven years. He also denied having ever illegally used a controlled substance while possessing a security clearance. Applicant admitted that his answers were incorrect, but denied that his answers were intentionally false. His plausible testimony as to how transposing his previous application answers to a blank form prepared for a third-party to enter electronically was underscored by his straightforward and highly credible demeanor. There is no evidence that Applicant intentionally falsified the truth in providing his answers. Consequently, neither Personal Conduct Disqualifying Condition 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*) nor any of the other disqualifying conditions apply to these allegations.

Moreover, Applicant’s alcohol and drug related incidents are best examined under Guideline G and Guideline H, where they have already been discussed. Therefore, Personal Conduct Disqualifying Condition AG ¶ 16(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*) and the other disqualifying conditions do not apply, except with regard to his workplace outburst in October 2007 and his drug use after being granted a security clearance. Those incidents are both sufficient to independently raise AG ¶ 16(d). With a PC DC raised, the burden shifts to Applicant to mitigate the security concerns.

While his workplace obviously knew about the behavior that led to his ten-day suspension, there is no evidence that Applicant immediately disclosed his illegal use of cocaine while he maintained a security clearance. Personal Conduct Mitigating

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<sup>30</sup> AG ¶ 15.

<sup>31</sup> *Id.*

Condition AG ¶ 17(a) (*the individual made prompt, good faith efforts to correct the omission, concealment, or falsification before being confronted with the facts*) does not apply. However, his outburst occurred over four years ago and was an isolated disciplinary action; it was not related to alcohol, drugs, or criminal conduct. It was his only adverse workplace incident in a 35-year career with the same entity. It was clearly an aberrational incident about which he has been both candid and credible. It is no likely to recur. Consequently, PC MC AG ¶ 17(c) (*the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment*) and AG ¶ 17(e) (*the individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress*) apply with regard to the outburst and suspension. However, none of the available mitigating concerns are applicable with regard to Applicant's drug use after he was granted a security concern.

### **Guideline J – Criminal Conduct**

The concern under this guideline is that “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.”<sup>32</sup> In this case, Appellant admitted that he illegally used cocaine after being granted a security clearance and that he was convicted of alcohol-related impaired driving, although, as previously noted, he credibly denied intentionally falsifying answers on his security clearance application, as discussed above. Such facts are sufficient to raise both Criminal Conduct Disqualifying Condition AG ¶ 31(a) (*a single serious crime or multiple lesser offenses*) and AG ¶ 31(c) (*allegation or admission of criminal conduct, regardless of whether the person was formally charged, formally prosecuted or convicted*). Consequently, it is Applicant's burden to mitigate the security concerns raised.

As noted above, the drug and alcohol-related conduct has been discussed under other guidelines. With regard to the impaired driving, however, Applicant has since committed to living alcohol-free and demonstrated his efforts to accomplish this goal. Criminal Conduct Mitigating Condition AG ¶ 32(a) (*so much time has elapsed since the criminal behavior happened, 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*) applies. Given the facts, his recent employment record, his contrition, and his willingness to take responsibility for such activity, AG ¶ 32(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 service*). However, none of the mitigating conditions are applicable to his illegal use of cocaine through 2007, after he was granted a security clearance.

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<sup>32</sup> AG ¶ 30.

## Whole-Person Concept

Under the whole-person concept, an administrative judge must evaluate an applicant's eligibility for a security clearance by considering the totality of an applicant's conduct and all the circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2 (a). Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based on 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, as well as the whole-person factors. Applicant is a sincere and candid 54-year-old construction mechanic with a high school education. He started his current work directly after high school and has worked for the same employer for 35 years. Despite an isolated disciplinary action in 2007, he maintains a reputation as a reliable and productive laborer. Despite some domestic difficulties in the 2000s, he has maintained a marriage that has survived over three decades. He has overcome the marital discord that marred his marriage in the late 2000s. The vast majority of the allegations raised are related to the period of 2006-2009 when his marriage was strained. Now that Applicant is alcohol and drug-free, his marital tension has been relieved and he once again leads a contented, substance-free life. Given his understanding that alcohol and drugs contributed to the discord in his life between 2006 and 2009, and in light of his current contentment, I do not believe that he will relapse in those areas.

What remains a genuine security concern is the fact he used cocaine, an illegal drug, after being granted a security clearance. While his alcohol-related offenses and misbehavior also posed concerns to the extent that they occurred while he maintained a security clearance, it is acknowledged that, at the time, he was clinically an alcohol dependent. His sporadic use of cocaine (about five times between the 1980s and early 2007) and his occasional contribution to its purchase, however, were clearly matters of personal choice. The fact that he chose to so abuse cocaine in full knowledge that it was illegal, and in violation of his obligations as both an employee and as one maintaining a security clearance, is particularly worrisome.

Using Applicant's own figures, he used cocaine up to five times between the 1980s and 2007. The exact dates of those five times are unknown. On average, however, he used the illegal drug about once every five years, including a period when he held a security clearance. Consequently, a period of less than five years since quitting such sporadic drug use is insufficient to demonstrate his ability to completely refrain from its use and regain that level of trust expected of one who seeks access to sensitive information. This is not to say that Applicant is a disloyal or fundamentally untrustworthiness person. It only indicates that Applicant currently fails to meet the criteria and high standards expected of one seeking to maintain a security clearance. In this case, he failed to mitigate the security concerns related to his drug use after receiving a security clearance. As noted, any reasonable doubt about whether an applicant should be allowed access to sensitive information must be resolved in favor of protecting such sensitive information. Clearance is denied.

## 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:<sup>33</sup>

Paragraph 1, Guideline G:	FOR APPLICANT
Subparagraphs 1.a-1.d:	For Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraph 2.a:	For Applicant
Subparagraph 2.b:	Against Applicant
Subparagraphs 2.c-2.d:	For Applicant
Paragraph 3, Guideline E:	AGAINST APPLICANT
Subparagraphs 3.a-3.d:	For Applicant
Subparagraph 3.e:	Against Applicant
Subparagraph 3.f:	For Applicant
Paragraph 4, Guideline J:	AGAINST APPLICANT
Subparagraph 4.a:	For Applicant
Subparagraph 4.b:	Against Applicant
Subparagraph 4.c:	For Applicant

## Conclusion

In light of all of the circumstances presented by the record in this case, it is not clearly consistent with national interest to grant Applicant a security clearance. Clearance denied.

ARTHUR E. MARSHALL, JR.  
Administrative Judge

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<sup>33</sup> The adverse findings at ¶¶ 3.e, and 4.b are reiterations of the allegation set forth at ¶ 2.b (“You used cocaine after being granted a security clearance,” regarding the cocaine use that apparently continued until April 2007, less than five years ago).