



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



In the matter of:)	
)	
XXXXXXXX, Xxxxxx Xxx)	ISCR Case No. 10-01513
)	
Applicant for Security Clearance)	

Appearances

For Government: Raashid S. Williams, Esquire, Department Counsel
For Applicant: *Pro se*

07/06/2012

Decision

METZ, John Grattan, Jr., Administrative Judge:

Based on the record in this case,¹ I grant Applicant's clearance.

On 13 January 2012 the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline G, Alcohol Consumption.² Applicant timely answered the SOR, requesting a hearing. DOHA assigned the case to me 13 April 2012, and I convened a hearing 10 May 2012. DOHA received the transcript 16 May 2012.

¹Consisting of the transcript (Tr.), Government Exhibits (GE) 1-5, and Applicant Exhibit (AE) A.

²DOHA acted under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1990), 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 1 September 2006.

Findings of Fact

Applicant admitted the Guideline G allegations. She is a 41-year-old systems administrator employed by a defense contractor since December 2008. She seeks to retain the clearance she has held since at least December 2004.

Applicant has a 15-year history of excessive alcohol consumption, punctuated by alcohol-related incidents and failed treatment efforts. In October 1997, she was cited for drunk in public and later fined (GE 4; AE A), without appearing in court. She received detoxification and treatment for alcohol dependence from October 2003 to April 2004. She relapsed during her treatment, but was later discharged with recommendations to continue Alcoholics Anonymous (AA) meetings and abstain from alcohol use.

Applicant resumed drinking shortly after her discharge, and in November 2004 she was fired from her job because her alcohol abuse caused her to be tardy or absent altogether. She was unemployed until March 2005. She was also unemployed from July to November 2005 and April to December 2008, as the government contracts she was employed on ended.

Applicant continued abusing alcohol, and sought treatment from November 2007 to March 2008 for alcohol dependence and major depressive disorder. She was given medications, and instructed to attend AA regularly and abstain from alcohol use. Applicant ignored these instructions. She left treatment in March 2008, stopped using her medications, and quit going to AA. She left treatment because her job was ending and she was losing her health insurance. Without her health insurance she could not pay for her medications and treatment sessions while maintaining her other financial obligations. She understood that alcohol was the cause of her major depressive disorder and mistakenly felt she could stop her medication as long as she did not drink. Not surprising, she resumed her alcohol abuse.

After Applicant obtained her current job in December 2008, her drinking began to increase. She tried to stop drinking on several occasions, but found that she could not stop on her own. She began to be concerned about the effect her drinking might have on her job. She then sought treatment again.

Applicant was last intoxicated in November 2010, when she drank 12 beers in about nine hours. This binge led to her treatment for alcohol withdrawal syndrome at the same treatment facility she attended in 2003-2004. She left treatment several days later against medical advice, without subsequent ongoing treatment of her concurrent major depressive disorder, and without follow-up plans to reduce relapse risk. She did this because she had been through the program in 2003-2004 and understood what she needed to do to prevent relapse risk.

Applicant returned to AA the day after she left the treatment program, and attended 90 meetings in 90 days, as recommended by her sponsor. She joined an alcohol-free social club that hosted AA meetings and sponsored social activities. This

allowed her to build a social network and support group that she did not have previously. She attends sponsored social events two or three times per month. Her home AA group recommended that she change sponsors, as her previous sponsor had stopped attending AA. Her new sponsor helped her understand AA in a way she had not previously understood it, and helped her to actually work the step program, not just attend meetings.

The hardest step for her was step one (admitting she was an alcoholic), and she is currently working on step four (making a searching and fearless moral inventory), a step she finds equally hard. She now typically attends AA two or three times per week, and last attended AA four days before the hearing. She speaks to her sponsor daily, at least by telephone. She has received her one-year sobriety coin. She no longer consumes alcohol, and her abstinence dates to November 2010. Applicant and her fiancé keep no alcohol in their home, and he goes out with his friends if he is going to drink. He does not drink in front of her.

Applicant has had clearances since her first job out of college, and has never had any security violations. She credibly described (Tr. 26-28) being in denial about her alcohol dependence until her November 2010 binge. She would abstain from alcohol during treatment, and for a time after treatment, but would always tell herself she could drink responsibly. She would drink responsibly for a time, but then return to alcohol abuse. The November 2010 binge that got her attention and caused her to seek treatment this last time, proved to her she could no longer be in denial about her alcohol dependence.

Policies

The adjudicative guidelines (AG) list factors to evaluate a person's suitability for access to classified information. Administrative judges must assess disqualifying and mitigating conditions under each issue fairly raised by the facts and situation presented. Each decision must also show a fair, impartial, and commonsense consideration of the factors listed in AG ¶ 2(a). The applicability of a disqualifying or mitigating condition is not, by itself, conclusive. However, specific guidelines should be followed where a case can be measured against them, as they represent policy guidance governing the grant or denial of a clearance. Considering the SOR allegations and the evidence as a whole, the relevant adjudicative guideline is Guideline G (Alcohol Consumption).

Security clearance decisions resolve whether it is clearly consistent with the national interest to grant or continue an applicant's security clearance. The Government must prove, by substantial evidence, controverted facts alleged in the SOR. If it does, the burden shifts to applicant to refute, extenuate, or mitigate the Government's case. Because no one has a right to a security clearance, the applicant bears a heavy burden of persuasion.

Persons with access to classified information enter into a fiduciary relationship with the Government based on trust and confidence. Therefore, the Government has a

compelling interest in ensuring each applicant possesses the requisite judgement, reliability, and trustworthiness of those who must protect national interests as their 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.³

Analysis

The Government established a case for disqualification under Guideline G, by demonstrating Applicant’s 15-year history of alcohol abuse, punctuated by a drunk in public citation in October 1997, a failed treatment from October 2003 to April 2004, an alcohol-related job loss in November 2004, a second failed treatment from November 2007 to March 2008, and a November 2010 alcohol binge that drove her to a third treatment.⁴

Department Counsel argues that Applicant should not retain her clearance because she only meets two of the four listed mitigating conditions (MC).⁵ However, clearance decisions are not governed by whether an Applicant meets all mitigating conditions or meets all disqualifying conditions. Indeed, an Applicant need not meet all prongs of a given condition for that condition to be relevant to the analysis of whether to grant or deny the clearance.

Here, for example, Department Counsel argued that Applicant did not meet MC 23(a) because she had only been abstinent for 18 months (recency). In fact, Applicant fails to meet MC 23(a) because her alcohol abuse was recent, frequent, and not particularly unusual in its circumstances. However, Department Counsel argued, and I conclude, that Applicant met all the requirements for MC 23(b). Applicant acknowledged her past problems with alcohol, and took steps to reduce her consumption, and avoid circumstances that had previously been troublesome for her.⁶ Her regular use of AA tools (meetings, step program, and sponsor), utilizing no-alcohol social activities, and removing alcohol from her home demonstrate that Applicant is committed to abstinence.

³See, *Department of the Navy v. Egan*, 484 U.S. 518 (1988).

⁴¶ 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; (b) alcohol-related incidents at work, such as reporting for work or duty in an intoxicated or impaired condition . . . 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 . . . of alcohol abuse or alcohol dependence; . . . (f) relapse after diagnosis of alcohol abuse or alcohol dependence and completion of an alcohol rehabilitation program;

⁵Department Counsel gives Applicant credit for mitigating conditions 23(b) and 23(d) (Tr. 58-63).

⁶¶ 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);

Alternatively, Department Counsel argued that Applicant did not meet the requirements of MC 23(c) because, while she was a current employee who was participating in a counseling or treatment program and was making satisfactory progress, she had a significant history of previous treatment and relapse. In this instance, I agree that the relapse history precludes application of this MC. Nevertheless, Department Counsel argued that Applicant met the requirements of MC 23(d) because she has successfully completed inpatient or outpatient counseling and demonstrated a clear and established pattern of abstinence. However, I conclude that she has not met the requirements of MC 23(d) she has not received a favorable prognosis from a recognized alcohol treatment program. Given her diagnoses of alcohol dependence, this factor is not easily overlooked.

Finally, the key moment in any ongoing recovery from alcohol dependence, especially under the AA model, is the moment when an Applicant acknowledges alcohol dependence and begins to accept that abstinence is the best way to mitigate alcohol dependence. The conviction of that acknowledgment and the strength of that acceptance are more important than any particular length of abstinence as long as the length of abstinence demonstrates that an Applicant has acquired the tools necessary to remain abstinent. And the length of abstinence is not affected by the length of past abuse or dependence because, by definition, the past failed efforts are due to the Applicant's denial of her alcohol dependence. Applicant's acceptance of her denial is what opens the door to her acknowledgment of her alcohol dependence and acceptance of abstinence as the key to her ongoing recovery. I conclude Applicant is unlikely to abuse alcohol in the future. Accordingly, I resolve Guideline G for Applicant.

Formal Findings

Paragraph 1. Guideline G:	FOR APPLICANT
Subparagraphs a-f:	For Applicant

Conclusion

Under the circumstances presented by the record in this case, it is clearly consistent with the national interest to grant or continue a security clearance for Applicant. Clearance granted.

JOHN GRATTAN METZ, JR
Administrative Judge