

Applicant answered the SOR on May 24, 2011, admitting all of the allegations and requesting a hearing. On July 5, 2011, the case was assigned to me. On August 8, 2011, a notice of hearing was issued scheduling the case for August 22, 2011. At the hearing, I received six Government exhibits (Government Exhibits (GE) 1-6), two Applicant Exhibits (Applicant Exhibits (AE) A and B), Applicant's testimony, and the testimony of two witnesses. At the close of the hearing, I left the record open for Applicant to submit additional documents. Within the time allotted, he submitted an additional document (AE C). The transcript was received on August 30, 2011.

Findings of Fact

Applicant is a 21-year-old, unmarried college student. He earned his associate's degree in computer science. (Ex. A) He works full-time for a defense contractor as a technician's apprentice. His duties include performing land surveys and project support for weapons separations. (Tr. 44)

Applicant is highly respected on the job. According to his mentor, a federal government employee who has been training technician's apprentices for more than 25 years, Applicant is "motivated, conscientious, focused, and skilled at his job." (AE A)

Applicant has a drinking problem. When he first started drinking alcohol in high school, his consumption was infrequent. However, it gradually increased. After graduating from high school, his drinking increased "exponentially," as he was consuming 12 to 15 beers per day on the weekends. (Tr. 25)

Applicant drank alcohol as part of the "party scene." (Tr. 20) Because marijuana was also part of this social milieu, he began to supplement his alcohol use with marijuana consumption by his senior year in high school. In 2007, while driving and smoking marijuana, Applicant was stopped by a police officer for speeding.¹ When the police officer noticed the marijuana, he arrested and charged Applicant with possession of a controlled substance. Applicant received probation before judgment. After performing eight hours of community service, the state nolle prossed the charges. (Tr. 30)

In March 2009, Applicant was arrested and charged with driving under the influence of alcohol (DUI). Subsequently, his license was suspended and he received 18 months of supervised probation. (Tr. 32; GE 2 at 6) Also, Applicant voluntarily attended three months of weekly outpatient treatment at a rehabilitation facility. (GE 2 at 6)

Applicant continued to drink alcohol and smoke marijuana while receiving rehabilitation services. During this time, he failed random urinalyses once for alcohol

¹The SOR alleges the arrest occurred in 2006. Applicant admitted the arrest occurred, but testified that it occurred in 2007. (Tr. 30)

and four times for marijuana. (Tr. 35) Consequently, the court extended his required participation in rehabilitation an extra two months. (Tr. 34)

Applicant did not abuse alcohol or marijuana for the remainder of the period he received treatment. However, as soon as he was discharged, he “picked it right back up.” (Tr. 36)

One night in October 2009, while driving home extremely inebriated, Applicant “blacked out” and ran off the road, crashing into a swamp. (Tr. 37) After awaking in a hospital, he was charged with DUI and violation of probation. (GE 3 at 2)

In November 2009, Applicant voluntarily enrolled in an inpatient alcohol treatment facility. (AE C) Applicant was evaluated by a licensed counselor who concluded he was alcohol dependent and cannabis dependent. (AE C at 3) Applicant successfully completed inpatient treatment in December 2009. (AE C) According to the counselor, “he has been active in his treatment and has committed to attending outpatient treatment and twelve step meetings after his discharge.” (*Id.* at 3) Upon Applicant’s discharge, his counselor recommended he continue outpatient treatment through AA.

In February 2010, Applicant was found guilty, and the court ordered him to serve four days in jail, time served, and to continue his outpatient alcohol treatment. (GE 5 at 5) Also, Applicant’s probation was extended for a year. (*Id.*)

Applicant has not consumed any alcohol since October 2009. (Tr. 40) He continued to use marijuana after abstaining from alcohol. (Tr. 41) He used it “as a crutch” to adjust to his alcohol abstinence. He has not used marijuana since his discharge from the treatment facility in December 2009. (Tr. 41)

Applicant diligently attends AA meetings three to four times per week. (Tr. 41) He frequently chairs AA meetings and goes to jails and rehabilitation facilities “to share [his] story of alcoholism and recovery.” (Tr. 16)

Applicant seldom socializes with the friends with whom he had socialized before he quit drinking alcohol and smoking marijuana. (Tr. 43) He is currently attending college, seeking a bachelor’s of science degree in engineering technology. (Tr. 45)

Policies

The adjudicative guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, they are applied together with the factors listed in the adjudicative process. 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.”

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 to obtain a security clearance.

Analysis

Guideline G, Alcohol Consumption

Under this guideline, “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). Applicant’s history of alcohol consumption and alcohol-related charges trigger the application of 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,” and 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.”

Applicant continued to drink alcohol after completing a court-ordered rehabilitation program in March 2009. AG ¶ 22(g), “failure to follow any court order regarding alcohol education, evaluation, treatment, or abstinence,” applies also.

After Applicant’s most recent alcohol-related offense, he entered an inpatient rehabilitation clinic where a licensed clinical social worker evaluated him and concluded he was alcohol dependent. AG ¶ 22(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,” applies.

Applicant’s most recent offense occurred less than two years ago. AG Mitigating Condition (MC) ¶ 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 the individual’s current reliability, trustworthiness, or good judgment,” is inapplicable.

Applicant was 19 years old when he committed his most recent offense. Since then, he has abstained from alcohol and marijuana, successfully completed inpatient alcohol treatment, and has been adhering to his outpatient requirements. He avidly participates in AA, attends meetings frequently, and volunteers to speak at local jails and rehabilitation centers. He is now a mature, introspective young man who rarely, if

ever, associates with his old, substance-abusing friends, and spends his time working and attending college. AG MC ¶¶ 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),” applies.

Guideline H, Drug Involvement

Under this guideline, “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” (AG ¶ 24). Applicant’s use of marijuana, his failure of several drug tests, and his diagnosis of cannabis dependence triggers the application AG ¶¶ 25(a), “any drug abuse,” 25(b), “testing positive for illegal drug use,” 25(c), “illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia,” and 25(e), “evaluation of drug abuse or drug dependence by a licensed clinical social worker who is a staff member of a recognized drug treatment program,” apply.

Applicant has matured, and has not used marijuana in nearly two years. As described above, he rarely socializes with his former drug-using contacts, and he successfully completed a treatment program. AG ¶¶ 26(b), “a demonstrated intent not to abuse any drugs in the future, such as . . . disassociation from drug-using associates and contacts, [and] an appropriate period of abstinence,” and 26(d), “satisfactory completion of a prescribed drug treatment program, including but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional,” apply.

Guideline J, Criminal Conduct

Under this guideline, “criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness.” Moreover, “by its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations,” (AG ¶ 30) In the past three years, Applicant has been arrested twice for alcohol-related criminal misconduct and once for possession of marijuana. AG ¶¶ 31(a), “a single serious crime or multiple lesser offenses,” applies.

For the reasons discussed above, I conclude AG ¶ 32(d), “there is evidence of successful rehabilitation; including, but not limited to . . . remorse or restitution, job training or higher education; good employment record, and constructive community involvement,” applies.

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) 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.

Applicant was an immature teenager when he began abusing alcohol and marijuana. After realizing that his second DUI could have had fatal consequences, Applicant committed himself to sobriety, completing inpatient treatment and following the outpatient requirements. Upon considering this case in the context of the whole-person concept, I conclude Applicant has mitigated the security concerns.

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:

Paragraph 1, Guideline G:	FOR APPLICANT
Subparagraphs 1.a-1.d:	For Applicant
Paragraph 2, Guideline H:	FOR APPLICANT
Subparagraphs 2.a-2.c:	For Applicant
Paragraph 3, Guideline J:	FOR APPLICANT
Subparagraph 3.a:	For Applicant

Conclusion

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

MARC E. CURRY
Administrative Judge