



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



In the matter of:	)	
	)	
	)	ISCR Case No. 10-09654
	)	
	)	
Applicant for Security Clearance	)	

**Appearances**

For Government: Caroline H. Jeffreys, Esq., Department Counsel  
For Applicant: *Pro se*

02/29/2012

**Decision**

CURRY, Marc E., Administrative Judge:

Applicant failed to mitigate the security concerns caused by his history of excessive alcohol consumption. Clearance is denied.

**Statement of the Case**

On September 15, 2011, the Defense Office of Hearings and Appeals (DOHA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline G, alcohol consumption. The action was taken under Executive Order 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; Department of Defense Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG) effective as of December 1, 2006.

Applicant answered the SOR on October 7, 2011, admitting all of the allegations, except subparagraph 1.a. Also, he requested a decision on the record evidence on file rather than a hearing. On November 23, 2011, Department Counsel prepared a File of

Relevant Material (FORM). Applicant received the form on December 13, 2011. He did not file a response, and on February 7, 2012, the case was assigned to me.

### **Findings of Fact**

Applicant is a 44-year-old married man with two children, ages 14 and 11. He earned a bachelor's degree in 1990. Since graduating, he has worked for various employers in the software engineering field. He has been working for his current employer, a defense contractor, since May 2010.

Applicant has a drinking problem. He began drinking when he was approximately 13 years old. His alcohol consumption became gradually worse over the years. By 2007, he was drinking so much that it was causing an unsafe elevation in his blood pressure, prompting him to see a cardiologist. (Item 7 at 50)

At some point between May 2007 and August 2010, Applicant's cardiologist diagnosed him with alcohol abuse. (Answer at 2) During a May 2007 examination, his cardiologist prescribed medication to help eliminate his urge to drink alcohol, and recommended that he attend Alcoholics Anonymous (AA). (Item 7 at 47, 50) Applicant did not follow his doctor's recommendation.

The medication that the doctor prescribed to help Applicant control his urge to drink alcohol was ineffective. By September 2007, Applicant's alcohol consumption had increased to up to two cases of beer per week. (Item 7 at 40) His doctor discontinued the medication and again recommended that Applicant quit drinking and attend AA meetings. Applicant again declined to follow his doctor's recommendation. (Item 7 at 40)

Six months later, Applicant went to another follow-up appointment with his physician. Applicant was still drinking two cases of beer per week. His physician again advised him to quit drinking and Applicant again refused. (Item 7 at 34)

By July 2009, Applicant's alcohol consumption had elevated his liver enzymes, increasing the risk of cirrhosis. (Item 7 at 31) Applicant then promised his doctor that he would try to quit drinking, and start going to AA meetings.

After the July 2009 doctor's appointment, Applicant gradually began reducing his alcohol consumption. (Item 7 at 18) Applicant never attended any AA meetings. (Item 5 at 56)

By January 2010, Applicant had totally quit drinking. (Item 7 at 18) His doctor had prescribed another prescription medication that proved to be more effective than the previous medication at stifling Applicant's urge to consume alcohol. Applicant remained sober through May 2010, then ran out of his medication. By June 2010, the month after he completed his security clearance application, he had resumed drinking alcohol, consuming up to six to nine beers per day. (Item 7 at 16) The doctor then diagnosed

him with “alcoholism with recurrence.” (Item 8 at 14, 16) The doctor filled the prescription, but when Applicant resumed it, it was ineffective.

In August 2010, Applicant’s doctor prescribed him a new medication to suppress his urge to drink alcohol. It is unknown from the record whether Applicant ever stopped drinking alcohol.

## **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 has been drinking alcohol for approximately 30 years. Despite being urged by his physician multiple times to quit drinking, he did not attempt to quit until his physician told him he was at increased risk of developing cirrhosis of the liver. By January 2010, Applicant had quit drinking, but then relapsed in June 2010, one month after he completed the security clearance application. That month, Applicant’s physician diagnosed him with alcoholism with recurrence.

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

I have considered the mitigating conditions and conclude none apply. Although Applicant attempted to quit drinking, he relapsed one month after completing the security clearance application. Also, he provided no evidence of any additional attempts at sobriety or any updated physician's records detailing his current condition. Applicant has failed to mitigate the alcohol consumption security concern.

### **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's drinking problem is serious and longstanding. He rejected his physician's suggestions to quit drinking, and did not attempt to do so until confronted with the possibility of a serious liver disease. His effort at sobriety failed, and he provided no evidence that he has renewed his effort to quit. Upon considering this case in the context of the whole-person concept, I conclude Applicant failed to mitigate the security concern.

### **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:	AGAINST APPLICANT
Subparagraphs 1.a-1.d:	Against Applicant

## **Conclusion**

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

MARC E. CURRY  
Administrative Judge