



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



In the matter of: )  
)  
) ISCR Case No. 11-05684  
)  
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Applicant for Security Clearance )

**Appearances**

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

06/17/2013

**Decision**

CURRY, Marc E., Administrative Judge:

Applicant failed to mitigate the security concerns related to his history of alcohol and drug abuse. Clearance is denied.

**Statement of the Case**

On November 21, 2012, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines G, alcohol consumption, and H, drug involvement. 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).

Applicant answered the SOR on December 15, 2012, admitting subparagraphs 1.b through 1.f,<sup>1</sup> and 2.b through 2.d. He partially admitted 2.a and denied 1.a. Also in his answer, he opted not to have a hearing, and instead, requested that a decision be made on the record. On February 1, 2013, Department Counsel prepared a File of Relevant Material. Applicant received the FORM on April 25, 2013, and filed a response on May 23, 2013. On June 4, 2013, the case was assigned to me.

### **Findings of Fact**

Applicant is a 54-year-old married man with one child, age 16. He has a high school diploma, and an associate's degree, earned in 1982. (Item 7 at 10) Applicant works as a mechanical designer for a defense contractor. He has worked for various employers in the mechanical design field for more than 20 years, and has held a security clearance since 2001. (Item 5 at 39)

Applicant is highly regarded on the job. His supervisor characterizes him as "an excellent and reliable worker." (Response to FORM at 3) A coworker describes him as "a steady and consistent producer with a high degree of accuracy in his work." (Response at 4)

Applicant has a history of alcohol and substance abuse. He began drinking alcohol in the mid-1970s after finishing high school. Within a few years, he was drinking approximately two to three six packs of beer per day. During this period, he was arrested twice and charged with driving while intoxicated (DWI) (Item 6 at 10) Recognizing that his alcohol use was a problem, Applicant attempted to quit drinking. However, episodes of sobriety were followed by cravings and withdrawal symptoms. (Item 6 at 5)

At some point during the late 1980s, after meeting his future wife, Applicant decided to join Alcoholics Anonymous (AA). In 1993, he supplemented the assistance he was receiving through AA by entering an inpatient treatment clinic. (Item 8) This was the first of multiple clinical interventions that Applicant sought for his drinking problem. In March 1994, Applicant was diagnosed with alcohol dependence. (Item 8 at 4)

Applicant stayed alcohol-free for most of the late 1990s. He was the model of a recovering alcoholic, working actively with AA and volunteering at a local prison to work with alcoholic inmates. (Item 6 at 5)

In 1999, Applicant relapsed, drinking two beers. He again stopped, and stayed abstinent for another ten years.

In February 2009, Applicant underwent knee surgery. He endured a difficult and painful rehabilitation, as his knee was unresponsive to pain medication. Later, the pain

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<sup>1</sup>The SOR erroneously lists the last subparagraph of Paragraph 1 as 1.d. It should, in fact, be 1.f. I will reference it as 1.f throughout the decision.

radiated to his back, as he altered his gait to shield himself from knee pain. (Item 6 at 13)

At or about the time Applicant was struggling with chronic knee pain, he began having marital problems. (Item 7 at 3) In February 2010, Applicant began drinking alcohol again, consuming six to eight beers per day to self-medicate, and abusing his prescription medication. (Answer at 2) Also at or about this time, Applicant began using cocaine, smoking it in “crack” form. Between February and May of 2010, Applicant smoked crack ten times, typically paying \$60 for it every three weeks. (Item 6 at 3) Applicant had previously used illegal drugs in the mid-1970s, experimenting with marijuana, cocaine, and qualuudes. (Item 6 at 5; Answer at 2)

In May 2010, Applicant admitted himself into a rehabilitation center for a week-long detoxification program. (Item 6 at 6) After completing his program, he entered another inpatient program where he received treatment for three weeks. Upon discharge, the clinic physician diagnosed him with polysubstance dependency on various drugs, including sedatives and opioids, and referred him to his family physician for additional treatment. (Item 7 at 8)

Applicant has not used illegal drugs or alcohol since May 2010 when he entered the detoxification program. He has recommitted himself to AA and attends regularly.

### **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 abuse and alcohol-related arrests, in tandem with his diagnosis of alcohol dependence, triggers the application of the following disqualifying conditions under 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;

(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

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

Although Applicant has maintained lengthy periods of sobriety after completing alcohol rehabilitation programs, he has relapsed twice, most recently in 2010. AG 22(f), "relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program," also applies.

The following mitigating conditions under AG ¶ 23(a) are potentially applicable:

(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); and

(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 profession or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant deserves credit for acknowledging his alcohol problem and seeking help. Applicant's first relapse after being diagnosed with alcohol dependence occurred

in 1999 when he drank two beers, six years after completing alcohol treatment. His relapse 11 years later was triggered in part by a chronic pain condition. He has been alcohol-free for three years.

Conversely, his latest relapse was severe and was accompanied by cocaine abuse. (See Drug Involvement Section, *infra*.) Given the circumstances of this latest relapse, together with the lengthy period that Applicant has been struggling with his alcohol problem, not enough time has elapsed to conclude that Applicant has established a pattern of abstinence sufficient to alleviate the security concerns. Consequently, although elements of the above-referenced mitigating conditions are present—relapse caused in part by unusual circumstances, acknowledgement of drinking problem, participation in AA—none of the mitigating conditions are applicable.

### **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 history of drug abuse, including cocaine use after being granted a security clearance, triggers the application of AG ¶ 25(a), “any drug abuse,” (c), “illegal drug possession, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia,” (d), “diagnosis by a duly qualified medical professional . . . of drug abuse or drug dependence,” and (g), “any illegal drug use after being granted a security clearance.”

Applicant deserves credit for forthrightly discussing his substance abuse history throughout the investigative process. Consequently, his contention that he has not used any illegal drugs in three years is credible. However, this passage of time is not sufficient to mitigate the drug abuse concern absent evidence of a favorable physician’s prognosis, given its nature and seriousness. None of the mitigating conditions apply.

### **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 is a good employee who has made good-faith efforts over the years to address his alcoholism including attending rehabilitation and volunteering with AA. However, his 2010 setback was severe and the nature of the setback was compounded with Applicant's illegal drug usage. Applicant's age does not mitigate the conduct because he was in his fifties when he had the setback. Under these circumstances, it is too soon to 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:	AGAINST APPLICANT
Subparagraphs 1.a-1.f:	Against Applicant
Paragraph 2, Guideline H:	AGAINST APPLICANT
Subparagraphs 2.a-2.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