



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



In the matter of:

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) ISCR Case No. 14-03556
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Applicant for Security Clearance

Appearances

For Government: David F. Hayes, Esq., Department Counsel
For Applicant: *Pro se*

06/04/2015

Decision

MASON, Paul J., Administrative Judge:

Applicant has a long history of serious and excessive alcohol consumption. He has relapsed after a diagnosis of alcohol dependence and completion of alcohol rehabilitation programs. The last two periods of sobriety before relapse have been less than four years. The most recent relapse was in November 2012. Applicant's evidence in mitigation falls short of overcoming the security concerns associated with his excessive alcohol consumption. Eligibility for access to classified information is denied.

Statement of the Case

On September 30, 2014, the Department of Defense (DOD) issued a Statement of Reasons (SOR) detailing security concerns under alcohol consumption (Guideline G), The action was taken pursuant to 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) implemented by the Department of Defense on September 1, 2006.

Applicant's answer to the SOR was signed and notarized on October 14, 2014. He requested a hearing. The Defense Office of Hearings and Appeals (DOHA) mailed a notice of hearing to Applicant on January 9, 2015, scheduling a hearing for February 13, 2015. The hearing was held as scheduled. The Government's exhibits (GE 1-5) and Applicant's exhibits (AE A-B) were admitted without objection. On February 24, 2015, the transcript was received and the record in this case closed.

Findings of Fact

The SOR identifies two allegations under alcohol consumption (Guideline G). Applicant admitted that he was diagnosed with alcohol dependence in 1988 and 1998. He admitted that after his diagnosis of alcohol dependence and completion of various alcohol rehabilitation programs, he relapsed, as recently as November 2012.

Applicant is 60 years old and has been living with his common law wife since 1987. They have no children. He has lived at his current address since December 1997, which also is his work location. Applicant served in the U.S. military from 1972 until his honorable discharge in 1981. In 1978, he began employment at his current job. Over the next three years, he attended school full time and worked full time. He received a bachelor's degree in electrical engineering in 1981. (Tr. 38-39)

Applicant was born into a family of alcoholics. He began drinking when he was about five years old. He drank in high school with friends. He was 17 years old when he joined the U.S. Navy and did not have opportunities to drink. (Tr. 21)

In 1975, he was discharged from the Navy, and he enrolled at a university. He began drinking a fifth of whiskey on a daily basis, and drank at that frequency until 1988. He was arrested and convicted of driving while under the influence of alcohol (DWI) in 1986. After completing a safety action program offered by the state division of motor vehicles, he realized that he had to stop. He investigated different treatment programs and entered a 30-day inpatient treatment program in June 1988. He was diagnosed as alcohol dependent. He attended seven outpatient aftercare meetings, began taking antabuse, and completed 90 Alcoholics anonymous (AA) meetings in 90 days. He promised not to use alcohol in the future. He abstained for a little over a year. However, having stopped AA, and with no sponsor, he resumed drinking. (GE 3 at 4, GE 4 at 5; Tr. 22)

In the early 1990s, he began drinking every day. He engaged in "maintenance drinking," or drinking a sufficient amount of alcohol to keep inevitable withdrawals at bay. Though he was drinking essentially the same amount of alcohol daily, the withdrawals became more intense. He drank until midnight and did not feel withdrawals until completion of the following workday. He realized that he needed help so he sought treatment in April 1998. He was admitted into a hospital with a diagnosis of alcohol dependence and treated

in the detoxification unit for four or five days. Then he completed a comprehensive addiction program and received a good prognosis. He was prescribed antabuse which made him sick if he drank alcohol. He attended an outpatient treatment program. He attended ten weeks of aftercare, meeting two nights a week with a licensed clinical social worker (LCSW). During aftercare, a medical professional provided an updated diagnosis of alcohol abuse and dependence. Applicant's future intentions were to abstain from alcohol use. He resumed his attendance in AA and was taking antabuse. He understood he needed to continue with AA, antabuse, and his sponsor for the remainder of his life. In the spring of 2000, Applicant was diagnosed with another serious medical condition and advised to stop drinking or he could die, to which he stated, "That is reason enough not to drink." (GE 4 at 4-5; Tr. 22-24)

Between 2000 and July 2001, while taking antabuse, Applicant consumed small amounts of alcohol on three occasions. The July 2001 incident occurred when Applicant was on temporary duty in another part of the state. In the evening, he decided to let his "ego" take over to determine whether he could control drinking. He explained that the "ego" materializes when he becomes content with the AA program after a long period of sobriety. He begins to feel confident and independent from AA and believes that one or two drinks will not hurt him. He wants to be able to relax with his friends and drink socially. But when the alcohol effect leaves his body, the withdrawals begin and he drinks more to keep the withdrawals at a minimum. He consumed a bottle of wine in his hotel room. He departed the next morning about eight a.m. for his official duty location. About noon at home, Applicant began experiencing withdrawals so he drank two more bottles of wine. He contacted his doctor who told him to contact the April 1998 comprehensive addiction program for additional treatment. His AA sponsor advised him that he would receive the same instruction within AA on how to maintain sobriety. At his sponsor's recommendation, Applicant increased his AA attendance from two or three meetings a week to three or more meetings a week. (GE 4 at 8-9; Tr. 25-26, 31-32)

Between July 2001 and 2009, Applicant consumed no alcohol. In 2009, with no precipitating event, he let his "ego" steer him into another attempt at controlled drinking. He started by consuming three one-ounce whiskey bottles the first day. He felt a little uncomfortable the next day so he drank three more one-ounce bottles. When his drinking increased to ten one-ounce bottles a day, he told his sponsor and his wife, and he entered treatment at a hospital. He completed detoxification and reentered AA. He maintained sobriety until November 2012 when he let his "ego" induce him into a controlled drinking experiment. He started with three one-ounce bottles the first day and by the tenth day, he was consuming ten one-ounce bottles at a frequency of about one bottle an hour to curb the withdrawals. (Tr. 25-27, 30)

Following the tenth day of alcohol consumption, Applicant informed his sponsor and his wife, and the three went to the hospital in November 2012, where Applicant was treated for four days in the detoxification unit. Next, he successfully completed 22 weeks of aftercare. His sponsor recommended that Applicant attend AA meetings more frequently and speak to other AA groups about the reasons for his relapses and the steps he was

going to take to avoid a future recurrence. The sponsor had Applicant record the reasons why he had his relapse. (Tr. 27-28, 53)

From 1998 to the present, Applicant has been in AA and performed volunteer work. He is a local representative of the national AA organization. He has always attended AA meetings even during his alcohol relapses. Neither his sponsor nor his wife could detect his alcohol use during these relapses because the smell vanishes so rapidly. During Applicant's teleworking at home, he indicated it was possible that he used alcohol. (Response to SOR; Tr. 32-34)

Applicant does not believe he will let his "ego" drive him to experiment with controlled drinking in the future because he is committed to total sobriety like two older members of his AA group who have been sober for 30 to 40 years. As he had stated in his June 2002 statement, he views himself as a member of AA for the rest of his life. The major lifestyle adjustments that Applicant has made since 1991 have been: (1) all his friends are AA members; (2) he has successfully maintained his career without using alcohol; and (3) he possesses a more mature outlook on life having become more secure spiritually. (Tr. 32-35, 45, 51-52)

Character Evidence

Applicant submitted two character references: one from his sponsor; and one from the Chief operating officer (COO) and facility security officer (FSO). On January 21, 2015, the sponsor indicated that he has held that position with Applicant since 1998. The sponsor is aware that Applicant has been advised not to drink because of the risk of severe withdrawals and seizures. The sponsor knows about Applicant's relapses in 2001, 2009, and 2012. Notwithstanding the relapses, Applicant has attended two AA meetings twice a week since 1998. He has held various positions in AA. He has maintained abstinence for up to eight years. The sponsor believes Applicant is committed to continuing recovery. (AE A)

On January 9, 2015, the COO indicated he has worked with Applicant since October 2011. The company's government customers vouch for Applicant's work product and his subject matter expertise that he developed over the last 37 years. The COO has never observed Applicant under the influence of alcohol. (AE B)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the AG. Each guideline lists potentially disqualifying conditions and mitigating conditions, which are useful in evaluating an applicant's eligibility for access to classified information.

The disqualifying and mitigating conditions should also be evaluated in the context of nine general factors known as the whole-person concept to bring together all available,

reliable information about the person, past and present, favorable and unfavorable, in making a decision for security clearance eligibility. Such decisions entail a certain degree of legally permissible extrapolation as to the potential, rather than actual, risk of compromise of classified information.

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 of establishing that it is clearly consistent with the national interest to grant him a security clearance.

Analysis

Alcohol Consumption

AG ¶ 21 sets forth the security concern for 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.

The disqualifying conditions under AG ¶ 22 are:

(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; and

(f) relapse after diagnosis of alcohol abuse or dependence and completion of an alcohol rehabilitation program.

Applicant has consumed alcohol since the 1960s. Upon his military discharge in 1975, he began drinking a fifth of whiskey a day until June 1988, when he admitted himself to inpatient treatment in June 1988 for alcohol dependence. After a little over a year, Applicant's relapse lasted until April 1998, when he was treated for alcohol dependence. The diagnosis was made by a duly qualified medical professional. Following detoxification, treatment, aftercare, beginning participation in AA and taking antabuse, Applicant relapsed twice in 2000 and learned that he had a serious life-threatening medical condition if he did not stop drinking. He had a relapse in July 2001. Following an eight-year of abstinence, he had a relapse in 2009 and November 2012. AG ¶¶ 22(c), 22(d), and 22(f) apply.

The conditions under AG ¶ 23 that potentially mitigate Appellant's alcohol consumption are:

(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 an inpatient or outpatient treatment counseling or rehabilitation along with any required after care, 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 professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant started problematic drinking alcohol in the 1960s and continued to drink with periods of abstinence of up to eight years between 2001 and 2009. He received alcohol dependence diagnoses in 1988 and 1998. He received detoxification, treatment and aftercare on three occasions in 1988, 1998, and November 2012. His sponsor increased his AA meetings and instruction on three occasions, which were in July 2001, 2009, and November 2012. He has completed the 12-step program and has been consistently attending AA since 1998. Applicant's current period of abstinence and ongoing attendance in AA weigh in his favor. However, given his long history of alcohol dependence and his relapses after completing three treatment programs and increased AA involvement, I am unable to apply AG ¶ 23(a). Applicant receives some mitigation under AG ¶ 23(b) for acknowledging his alcoholism and his 27-month period of abstinence. The mitigation he receives under AG ¶ 23(d) is significantly reduced by his past failed rehabilitative efforts and the absence of a recent favorable prognosis from qualified medical professional.

Whole-Person Concept

I have examined the evidence under the disqualifying and mitigating conditions of the alcohol consumption guideline. I have also weighed the circumstances within the context of nine variables known as the whole-person concept. In evaluating the relevance of an individual's conduct, the administrative judge should consider the following factors:

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 the participation was 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be a commonsense judgment based on careful consideration of the guidelines and the whole-person concept.

Applicant received an honorable discharge from the Navy in 1975. He began working for his current employer in 1978 and received his electrical engineering degree in 1981. His one alcohol-related conviction occurred in 1986. He provided supportive statements from his sponsor and his COO. He has been abstinent for 27 months and is attending AA meetings twice a week.

Applicant has a long history of excessive alcohol consumption. He exercised good judgment in 1988 by initially seeking treatment to stop his dependence. However, he realized that his failure to make a lasting connection with AA and a sponsor were primary reasons for his resumption of excessive alcohol consumption in the early 1990s. However, he resumed AA fellowship in 1998. He also began taking antabuse which makes one ill if taken with alcohol. In the spring of 2000, Applicant learned he had a medical condition that posed additional health problems. Yet, his "ego" led him into three additional relapses in 2001, 2009, and November 2012, even with his continuous AA attendance and guidance from his sponsor since 1998. In light of his history of excessive alcohol consumption and repeated relapses, it is still premature to grant or continue Applicant's security clearance at this time. Having weighed the disqualifying evidence with the mitigating evidence, and in the context of the whole-person concept, Applicant has not fully mitigated the security concerns associated with the alcohol consumption guideline. See 2(a)(1) through 2(a)(9).

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
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Subparagraphs 1.a, 1.b:	Against Applicant
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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 eligibility for a security clearance. Eligibility for access to classified information is denied.

Paul J. Mason
Administrative Judge