



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-01921

Appearances

For Government: Carroll J. Connelley, Esq., Department Counsel
For Applicant: *Pro se*

09/24/2025

Decision

FOREMAN, LeRoy F., Administrative Judge:

This case involves security concerns raised under Guideline G (Alcohol Consumption). Clearance is denied.

Statement of the Case

Applicant submitted a security clearance application (SCA) on November 20, 2021. On March 18, 2025, the Defense Counterintelligence and Security Agency (DCSA) sent him a Statement of Reasons (SOR) alleging security concerns under Guideline G. The DCSA acted under Executive Order (Exec. Or.) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), 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) promulgated in Security Executive Agent Directive 4, *National Security Adjudicative Guidelines* (December 10, 2016), which became effective on June 8, 2017.

Applicant answered the SOR on March 18, 2025, and requested a decision on the written record in lieu of a hearing. Department Counsel submitted the Government's written case on June 2, 2025. A complete copy of the file of relevant material (FORM) was sent to Applicant, who was given an opportunity to file objections and submit material to refute, extenuate, or mitigate the Government's evidence. The FORM consists of the SOR and Applicant's answer to the SOR (Government Exhibit (GX) 1) Applicant's SCA's from August 2015 (GX 2 and November 2021 (GX 3), his answers to DOHA interrogatories (GX 4), a summary of an interview by a security investigator on December 17, 2021 (GX 5), and a summary of an interview by a security investigator on April 17, 2024 (GX 6). GX 1 through 6 are admitted in evidence.

Applicant received the FORM on June 10, 2025, and submitted Applicant's Exhibits (AX) A through G, which are admitted in evidence. The case was assigned to me on September 2, 2025.

Findings of Fact

In Applicant's answer to the SOR, he admitted the allegations in SOR ¶¶ 1.a and 1.b. He admitted SOR ¶¶ 1.c and 1.d in part with explanations. He denied SOR ¶ 1.e. His admissions are incorporated in my findings of fact.

Applicant is a 27-year-old logistics technician employed by a defense contractor. He graduated from high school in May 2015. He has never married and has no children. He has never held a security clearance.

The evidence related to the allegations in the SOR is summarized below.

SOR ¶ 1.a: arrest in September 2018 and charges of driving while impaired by alcohol, contributing to an accident, and failure to maintain proper control of his vehicle. This allegation is established. In September 2018, Applicant was involved in a traffic accident when he hit a curb and had a collision with another vehicle. During a security interview on December 17, 2021, he told an investigator that he had consumed half of a fifth of liquor and believed he was intoxicated before he drove. He failed a field sobriety test at the scene of the accident. He was not offered a breathalyzer test. Before his scheduled court date, he voluntarily attended alcohol counseling classes consisting of a two-hour session once a week from October to November 2018. He was granted probation before judgment with unsupervised probation, and he successfully completed it. (GX 5 at 2; AX B)

SOR ¶ 1.b: Completion of treatment with good prognosis conditioned on maintaining sobriety and continued attendance at AA meetings. Applicant admitted voluntarily seeking counseling for a pattern of "mistreating" alcohol. He did not admit receiving "treatment." He denied that his prognosis was conditioned on participating on AA meetings, and there is no evidence that AA participation was required. There is no evidence in the record of a diagnosis of alcohol disorder. The record does not reflect a recommendation for participation in Alcoholics Anonymous (AA) or any similar program. Although this allegation is partially established, voluntarily seeking counseling is not a disqualifying condition. Therefore, I have resolved this allegation in Applicant's favor.

SOR ¶ 1.c: Completion of treatment in December 2018 conditioned on maintaining sobriety and participating in AA. This allegation duplicates SOR ¶ 1.b. When the same conduct is alleged twice in the SOR under the same guideline, one of the duplicative allegations should be resolved in Applicant's favor. ISCR Case No. 03-04704 at 3 (App. Bd. Sep. 21, 2005). Accordingly, I have resolved this allegation for Applicant.

SOR ¶ 1.d: Continued consuming alcohol, notwithstanding treatment for alcohol abuse. This allegation is partially established. Applicant has admitted that he continues to consume alcohol. There is no evidence of "treatment" for alcohol abuse, but there is evidence of counseling. He limits his alcohol consumption to weekends and at family gatherings, and he does not drive after consuming alcohol. During the security interview in December 2021, he told the investigator that he currently drinks seven or eight beers or shots of liquor on weekends at home. (GX 5 at 2-3) In response to DOHA interrogatories in February 2025, he stated that he drinks about five beers on Friday or Saturday nights, and that he intends to continue that level of consumption. When asked if he currently consumes alcohol to the point of intoxication, he answered "Yes" but "Not often," at occasions like weddings, family gatherings, and friends' birthdays. He stated that he last drank to the point of intoxication on January 25, 2025. (GX 4 at 5)

SOR ¶ 1.e: Failure to follow treatment recommendations to refrain from alcohol use and to attend AA. This allegation is partially established. There is no evidence of "treatment," but Applicant admitted that during his voluntary counseling he was "encouraged to quit or refrain from drinking alcohol."

Applicant's project manager submitted a letter describing Applicant as "one of the most reliable, dedicated, and mission-driven individuals" on his team. His project manager also states that any assertions that he "still drinks or failed to follow court directives are unsupported by the legal record and inaccurately represent his conduct and character." (AX B)

Applicant submitted evidence of training designed to improve his job performance. He completed online technical refresher training in March 2024, insider threat awareness in May 2024, mandatory controlled unclassified information training in May 2024, environmental compliance assessment training in March 2025, and foreign objects debris training in June 2025. (AX C through G)

Policies

"[N]o one has a 'right' to a security clearance." *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). As Commander in Chief, the President has the authority to "control access to information bearing on national security and to determine whether an individual is sufficiently trustworthy to have access to such information." *Id.* at 527. The President has authorized the Secretary of Defense or his designee to grant applicants eligibility for access to classified information "only upon a finding that it is clearly consistent with the national interest to do so." Exec. Or. 10865 § 2.

Eligibility for a security clearance is predicated upon the applicant meeting the criteria contained in the adjudicative guidelines. These guidelines are not inflexible rules

of law. Instead, recognizing the complexities of human behavior, an administrative judge applies these guidelines in conjunction with an evaluation of the whole person. An administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. An administrative judge must consider all available and reliable information about the person, past and present, favorable and unfavorable.

The Government reposes a high degree of trust and confidence in persons with access to classified information. This relationship transcends normal duty hours and endures throughout off-duty hours. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation about potential, rather than actual, risk of compromise of classified information.

Clearance decisions must be made "in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned." Exec. Or. 10865 § 7. Thus, a decision to deny a security clearance is merely an indication the applicant has not met the strict guidelines the President and the Secretary of Defense have established for issuing a clearance.

Initially, the Government must establish, by substantial evidence, conditions in the personal or professional history of the applicant that may disqualify the applicant from being eligible for access to classified information. The Government has the burden of establishing controverted facts alleged in the SOR. See *Egan* at 531. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion in light of all the contrary evidence in the same record." See ISCR Case No. 17-04166 at 3 (App. Bd. Mar. 21, 2019). It is "less than the weight of the evidence, and the possibility of drawing two inconsistent conclusions from the evidence does not prevent [a Judge's] finding from being supported by substantial evidence." *Consolo v. Federal Maritime Comm'n*, 383 U.S. 607, 620 (1966). "Substantial evidence" is "more than a scintilla but less than a preponderance." See *v. Washington Metro. Area Transit Auth.*, 36 F.3d 375, 380 (4th Cir. 1994). The guidelines presume a nexus or rational connection between proven conduct under any of the criteria listed therein and an applicant's security suitability. ISCR Case No. 15-01253 at 3 (App. Bd. Apr. 20, 2016).

Once the Government establishes a disqualifying condition by substantial evidence, the burden shifts to the applicant to rebut, explain, extenuate, or mitigate the facts. Directive ¶ E3.1.15. An applicant has the burden of proving a mitigating condition, and the burden of disproving it never shifts to the Government. See ISCR Case No. 02-31154 at 5 (App. Bd. Sep. 22, 2005).

An applicant "has the ultimate burden of demonstrating that it is clearly consistent with the national interest to grant or continue his security clearance." ISCR Case No. 01-20700 at 3 (App. Bd. Dec. 19, 2002). "[S]ecurity clearance determinations should err, if they must, on the side of denials." *Egan* at 531.

Analysis

Guideline G, Alcohol Consumption

The concern under this guideline is set out in AG ¶ 21: “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.” Applicant’s admissions establish the following disqualifying conditions under this guideline:

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 the frequency of the individual’s alcohol use or whether the individual has been diagnosed with alcohol use disorder; and

AG ¶ 22(c): habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder.

The following mitigating conditions are potentially applicable:

AG ¶ 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 judgment;

AG ¶ 23(b): the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations; and

AG ¶ 23(d): the individual has successfully completed a treatment program along with any required aftercare and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

AG ¶ 23(a) is not established. The first prong of AG ¶ 23(a) (“so much time has passed”) focuses on whether the conduct was recent. There are no bright line rules for determining when conduct is recent. The determination must be based on a careful evaluation of the totality of the evidence. If the evidence shows a significant period of time has passed without any evidence of misconduct, then an administrative judge must determine whether that period of time demonstrates changed circumstances or conduct sufficient to warrant a finding of reform or rehabilitation. ISCR Case No. 02-24452 at 6 (App. Bd. Aug. 4, 2004). Applicant’s DUI was six years ago, which is a “significant period of time,” and there is no evidence of further alcohol-related incidents. However, he has

admitted a continuing level of alcohol consumption amounting to binge drinking and frequent bouts of intoxication.

AG ¶¶ 23(b) and 23(d) are not established. Applicant has acknowledged his excessive alcohol consumption, successfully completed an alcohol counseling program, and now refrains from driving after drinking, but he has not demonstrated “a clear and established pattern” of modified consumption or abstinence.

Whole-Person Analysis

Under AG ¶ 2(c), the ultimate determination of whether to grant a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. An administrative judge must evaluate an applicant’s security eligibility by considering the totality of the applicant’s conduct and all the relevant circumstances. An administrative judge should consider the nine adjudicative process factors listed at AG ¶ 2(d):

- (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.

I have incorporated my comments under Guideline G in my whole-person analysis and applied the adjudicative factors in AG ¶ 2(d). Because Applicant requested a determination on the record without a hearing, I had no opportunity to question him or evaluate his credibility and sincerity based on demeanor. See ISCR Case No. 01-12350 at 3-4 (App. Bd. Jul. 23, 2003).

After weighing the disqualifying and mitigating conditions under Guideline G, and evaluating all the evidence in the context of the whole person, I conclude Applicant has not mitigated the security concerns raised by his alcohol consumption.

Formal Findings

I make the following formal findings on the allegations in the SOR:

Paragraph 1, Guideline G (Alcohol Consumption): AGAINST APPLICANT

Subparagraph 1.a: Against Applicant

Subparagraphs 1.b and 1.c: For Applicant

Subparagraphs 1.d and 1.e: Against Applicant

Conclusion

I conclude that it is not clearly consistent with the national security interests of the United States to grant Applicant eligibility for access to classified information. Clearance is denied.

LeRoy F. Foreman
Administrative Judge