



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



## **Appearances**

For Government: Cynthia Ruckno, Esq., Department Counsel  
For Applicant: *Pro se*

07/30/2025

## Decision

BENSON, Pamela C., Administrative Judge:

Applicant mitigated the security concerns under Guidelines G (alcohol consumption) and E (personal conduct). Eligibility for access to classified information is granted.

## **Statement of the Case**

On April 23, 2024, the Department of Defense (DOD) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guidelines G and E. The DOD acted under Executive Order (EO) 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 implemented by the DOD on June 8, 2017.

On May 28, 2024, Applicant provided a response to the SOR. (Answer) He admitted SOR ¶¶ 1.a through 1.e and 2.c. He denied SOR ¶¶ 2.a, 2.b, and 2.d. He requested a hearing before a Defense Office of Hearings and Appeals (DOHA) administrative judge. I was assigned this case on January 3, 2025. DOHA issued a

notice on May 1, 2025, scheduling the hearing for May 21, 2025. The hearing proceeded as scheduled via online video teleconferencing.

Department Counsel submitted Government Exhibits (GE) 1 through 8; Applicant testified and offered 12 documents, which I labeled as Applicant Exhibits (AE) A through L. All of the exhibits were admitted into evidence without objection. Department Counsel requested that I take administrative notice of certain provisions of the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5). Without objection, I have taken administrative notice of the DSM-5 in general and specifically as requested. (Hearing Exhibit (HE) II)

During the May 21, 2025 hearing, Department Counsel withdrew SOR ¶ 2.b, a single allegation under Guideline E of the SOR. I held the record open until June 21, 2025, in the event either party wanted to supplement the record. Applicant timely submitted AE M, which was admitted into evidence without objection. DOHA received the hearing transcript (Tr.) on May 28, 2025.

### **Findings of Fact**

Applicant is a 38-year-old employee of a defense contractor. He has worked as a systems administrator for his current employer since about April 2016. He served active duty in the Army from about November 2010 to June 2016, when he was honorably discharged. He served part time in the Army National Guard from June 2016 until June 2018, when he received an honorable discharge. He has a liberal arts degree from a community college. He is unmarried and does not have any children. He has maintained a security clearance since leaving the military in 2018. (Tr. 26-28; GE 1)

### **Alcohol Consumption and Personal Conduct**

Applicant consumed alcohol, at times to excess and to the point of intoxication, on various occasions up until at least April 2024. (SOR ¶ 1.a) He admitted this information in his response to the SOR. (Answer; Tr. 50-52; GE 2)

SOR ¶ 1.b alleges in about October 2018, Applicant passed out while driving home. He had consumed alcohol at a bar and drove his car off the side of the road. He stated he had consumed approximately two or three mixed drinks at the bar. He believed his drinks were “spiked” with an unknown substance because he could not remember leaving the bar. He woke up after a police officer tapped his car window, and he felt “woozy” performing the field sobriety tests. He refused to take a breathalyzer test. He was subsequently charged with reckless driving and convicted of driving left of center. Applicant reported this incident to his security officer. He had this charge expunged in about 2019. (GE 2, 3; Tr. 28-36)

SOR ¶ 1.c alleges in about August 2020, Applicant was charged with driving under the influence (DUI). He had been at the same bar with friends watching a football game. Applicant stated that he drank one beer and one mixed cocktail. He was pulled

over by police for swerving, and he was arrested after he failed the field sobriety test. He refused to take a breathalyzer test at the jailhouse. He lost driving privileges from August 2020 to about May 2021, and he had to attend the Alcohol and Drug Safety Action Program (ADSAP) for four weeks in January 2021. His trial date was delayed until January 2023 due to COVID-19 restrictions. Applicant reported this incident to his security officer. In January 2023, the charge was reduced to reckless driving, as set forth in SOR ¶ 2.c, below. (GE 2, 4; Tr. 36-43, 58; AE M)

SOR ¶ 1.d alleges in about May 2021, Applicant was charged with DUI. He was at a bar with friends for karaoke. He testified he drank three or four beers when he left the bar. He was pulled over by police for swerving, and he was arrested after he failed the field sobriety test. His driving privileges were suspended, and he had to attend ADSAP from January 2022 until April 2022. His trial date was delayed until January 2023 due to COVID-19 restrictions. Applicant reported this incident to his security officer. In January 2023, the charge was reduced to reckless driving. (GE 2, 4, 7; Tr. 43-46)

SOR ¶ 1.e alleges in about January 2022, Applicant was diagnosed with alcohol use disorder, mild, while attending ADSAP. He admitted this information in his Answer and explained at the hearing he received this diagnosis because he had two DUI arrests. (Tr. 46-47; GE 7; HE II)

During a November 9, 2022 background interview, Applicant told the investigator that he normally drinks two to three beers or mixed drinks on either Friday or Saturday night. In his interrogatory he signed on April 8, 2024, Applicant listed he currently drinks three or four beers, and one tequila shot every weekend. He estimated that he became intoxicated about 60 percent of the time he drinks. When Applicant was queried about this during the hearing, he stated, "I've made better decisions since then." He admitted he currently consumes a couple of beers on the weekends, and he no longer drives if he is drinking alcohol. (GE 2; Tr. 50-53, 77-80) He stated,

...with all the stuff that transpired is just a lot that I had to learn, and forced me to become a better person, make better decisions, learn from my mistakes, and just try not to repeat them, and move forward, and hopefully never have to be in this situation again. And so [I am] still working on that, working on just making better decisions overall in life, not just with alcohol, just in general, and just progressively moving forward.

In about 2020, Applicant received counseling at the Veterans Affairs (VA) for his condition diagnosed as post-traumatic stress disorder (PTSD), and to deal with his grief after two close family members passed away a few months apart earlier that year. In about June 2021, he started seeing a specific mental health professional to effectively deal with his stress and identify triggers. Applicant stated that he continues counseling every month, and he believes the counseling has been effective. (Tr. 51, 54-56, 73)

SOR ¶ 2.a cross-alleged under Guideline E all of the SOR allegations under Guideline G.

SOR ¶ 2.c alleged Applicant was charged with reckless driving in January 2023. He admitted this in his Answer, but he explained that this was a reduced charge from his August 2020 DUI arrest. A police officer issued a new ticket for the reckless driving charge, but he used the current date instead of backdating the citation to the August 2020 incident. After the hearing, Applicant timely submitted clear and convincing information from the court magistrate that the ticket date was written in error. This SOR allegation is repetitive to SOR ¶ 1.c, and I find it in favor of Applicant. SOR ¶ 2.d, which alleged Applicant falsified his interrogatories when he failed to disclose his 2023 reckless driving violation, is also found in favor of Applicant because this was not a new charge but related to the incident in SOR ¶ 1.c. (AE J, K, M; Tr. 62-71)

## Policies

This case is adjudicated under Executive Order (EO) 10865, *Safeguarding Classified Information within Industry* (February 20, 1960), as amended; DoD Directive 5220.6, *Defense Industrial Personnel Security Clearance Review Program* (January 2, 1992), as amended (Directive); and the adjudicative guidelines (AG), which became effective on June 8, 2017.

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines. In addition to brief introductory explanations for each guideline, the adjudicative guidelines list potentially disqualifying conditions and mitigating conditions, which are to be used in evaluating an applicant's eligibility for access to classified information.

These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, administrative judges apply the guidelines in conjunction with the factors listed in the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. 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 national security eligibility will be resolved in favor of the 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 the applicant or proven by Department Counsel." The applicant has the ultimate burden of persuasion to obtain a favorable security decision.

A person who seeks access to classified information enters into a fiduciary relationship with the Government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The Government reposes a high degree of trust and confidence in individuals to whom it grants access to classified information. Decisions include, by necessity, consideration of the possible risk the applicant may deliberately or inadvertently fail to safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation of potential, rather than actual, risk of compromise of classified information.

Section 7 of EO 10865 provides that adverse decisions shall be “in terms of the national interest and shall in no sense be a determination as to the loyalty of the applicant concerned.” See also EO 12968, Section 3.1(b) (listing multiple prerequisites for access to classified or sensitive information).

## **Analysis**

### **Alcohol Consumption and Personal Conduct**

AG ¶ 21 describes the security concern about 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.”

AG ¶ 15 describes the security concern about personal conduct, “Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security clearance investigative or adjudicative processes. The following will normally result in an unfavorable national security eligibility determination, security clearance action, or cancellation of further processing for national security eligibility.”

AG ¶ 22 provides conditions that could raise an alcohol consumption security concern and may be disqualifying in this case as follows:

- (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
- (d) diagnosis by a duly qualified medical or mental health professional (e.g. physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.

AG ¶ 16 describes conditions that could raise a security concern and may be disqualifying. The following disqualifying conditions are potentially applicable:

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities; and

(d) credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

(1) untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;

(2) any disruptive, violent, or other inappropriate behavior;

(3) a pattern of dishonesty or rule violations; and

(4) evidence of significant misuse of Government or other employer's time or resources.

Applicant's admissions and the record evidence support application of AG ¶¶ 22(a), 22(d), and 16(d). AG ¶ 16(a) does not apply because Applicant did not falsify any information. Discussion of the disqualifying conditions is in the mitigating section, below.

AG ¶ 23 lists four conditions that could mitigate alcohol consumption security concerns:

(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;

(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;

(c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and

(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 ¶ 17 provides conditions that could mitigate personal conduct security concerns. The following are potentially applicable:

(c) the offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) the individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur.

All the alleged and established problematic conduct related to Applicant's excessive drinking ended years ago, and after he learned to deal with issues related to PTSD and grief through therapy. He has received counseling since 2020 to change his poor decision-making, and he has continued counseling to date to help him become a more responsible individual. He has had no alcohol related incidents for the past four years, which supports a finding that his current alcohol use is responsible. Applicant was credible and forthright during the hearing. He reported all criminal charges to his security officer, and he did not falsify relevant information during the course of his security clearance investigation. I find the conduct is unlikely to recur, and it no longer casts doubt on Applicant's reliability, trustworthiness, or good judgment. AG ¶¶ 22(a), 22(b), 22(c), 17(c), and 17(d) are applicable. Applicant successfully mitigated the security concerns under Guidelines G and E.

### **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 relevant circumstances. The 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.

Under AG ¶ 2(c), the ultimate determination of whether to grant eligibility for a security clearance must be an overall commonsense judgment based upon careful consideration of the guidelines and the whole-person concept. I have incorporated my comments under Guidelines G and E and in my whole-person analysis. I also considered Applicant's favorable character evidence.

Applicant has taken positive steps in his life to be more accountable and to stop repeating his past mistakes. Overall, the record evidence leaves me without questions or doubts about Applicant's eligibility and suitability for a security clearance. I conclude Applicant mitigated the security concerns under Guidelines G and E.

### **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.e: For Applicant

Paragraph 2, Guideline E: FOR APPLICANT

Subparagraphs 2.a, 2.c, and 2.d: For Applicant

Subparagraph 2.b: Withdrawn

### **Conclusion**

It is clearly consistent with the national interest to continue Applicant's eligibility for a security clearance. Eligibility for access to classified information is granted.

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Pamela C. Benson  
Administrative Judge