



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



In the matter of:

Applicant for Security Clearance

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ISCR Case No. 24-02236

Appearances

For Government: Aubrey De Angelis, Esq., Department Counsel

For Applicant: Ryan C. Nerney, Attorney At Law, Tully Rinckey, PLLC

09/19/2025

Decision

Lokey Anderson, Darlene D., Administrative Judge:

Statement of the Case

On February 5, 2024, Applicant submitted a security clearance application (e-QIP). (Government Exhibit 1.) On February 20, 2025, the Defense Counterintelligence and Security Agency Consolidated Adjudications Services (DCSA CAS) issued Applicant a Statement of Reasons (SOR), detailing security concerns under Guideline G, Alcohol Consumption; and Guideline J, Criminal Conduct. The action was taken 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) effective within the DoD after June 8, 2017.

Applicant answered the SOR on April 28, 2025, and requested a hearing before an administrative judge. The case was assigned to me on June 16, 2025. The Defense Office of Hearings and Appeals (DOHA) issued a notice of hearing on July 2, 2025, and the hearing was convened as scheduled on August 26, 2025. The Government offered eight exhibits, referred to as Government Exhibits 1 through 8, which were admitted without objection. The Applicant offered 26 exhibits, referred to as Applicant's Exhibits A through Z, which were admitted without objection. He also called three witnesses and he testified on his own behalf. DOHA received the transcript of the hearing (Tr.) on September 8, 2025.

Findings of Fact

Applicant is 32 years old. He is divorced and has two children, ages 13 and 6. He has a high school diploma, and is currently in his third year of college working towards a Bachelor's degree in Network Operations and Security. He is employed by a defense contractor as a Systems Analyst. He is seeking to obtain a security clearance in connection with his employment.

The SOR highlights Applicant's extensive history of alcohol abuse and criminal conduct. Applicant consumed alcohol to excess and at times to the point of intoxication, and on several occasions resulted in criminal violations. Applicant admits to each of the allegations set forth in the SOR. (Applicant's Answer to SOR.) Applicant began working for his current employer in December 2023.

Applicant served on active duty in the United States Army, from June 12, 2012, until December 2023. During his service he was deployed to Afghanistan, Kuwait, and Poland, and to various field exercises located at the training center. He received an honorable discharge as a staff sergeant. He has held a security clearance since 2012.

Applicant testified that he started consuming alcohol heavily before 2020. Problems in his marriage grew evident, and by November 2020, he and his wife separated. The heavy drinking continued. Applicant claims that he did not consume alcohol every day, but on the days he drank, the alcohol percentage in the drinks he consumed were a lot heavier than before. (Tr. p. 67.)

In June 2020 Applicant received nonjudicial punishment (NJP) under Article 15 of the Uniform Code of Military Justice (UCMJ) for drinking with his soldiers and coercing them to drink while in quarantine. He was charged with consuming alcohol while at work; and for unfairly treating soldiers in his platoon, for failing to honor quarantine orders. Three soldiers witnessed Applicant's consumption of alcohol and reported this to the battalion commander. (Government Exhibit Q.) Applicant denies that he was drinking alcohol with his soldiers; and claims that because each of the soldiers tell a slightly different rendition of the story, they should not be found credible. The battalion commander thought differently. As a result, Applicant was found guilty of failing to

follow a lawful order. He received a reduction in grade from E-6 to E-5; 30-days extra duty; an oral reprimand; and restriction from leaving the base. (Tr. pp. 57-58 and 63.) Information also reported that Applicant had been consuming alcohol during the work day in January 2020; and at a funeral detail in February 2020. Applicant again denied that this happened. (Tr. pp. 84-85) Applicant's command mandated that he enroll in a substance use disorder clinical care program. (Tr p. 86.) To satisfy the command's mandate, Applicant stated that he took a Prime for Life class, and went to alcohol counseling and therapy. (Tr. p. 87.) Following this event, Applicant stated that he was able to completely abstain from alcohol for about a year from June 2020 to June 2021. (Tr. p. 90.)

In June 2021, Applicant started drinking again. He and his now ex-wife had broken up around November 2020, and issues leading up to the divorce were prevalent. Applicant turned to alcohol to deal with these issues and drank excessively. At this point, he did not believe that he was an alcoholic. (Tr. p. 92.)

From February 2022 to December 2022, Applicant was deployed in the European AOR. In June 2022, he received NJP under Article 15 of the UCMJ for consuming more than two alcoholic drinks within 24 hours period, and for being drunk and disorderly at or near Finland. Applicant explained that he had gone out to breakfast with his coworkers. They ended up going out for drinks, and Applicant drank more than he expected to. He was so intoxicated that he had to be picked up at the bar, because he could not stand or walk on his own. (Tr. p. 96.) Applicant later reported that he normally consumed five beers and four shots of whiskey on weekends, and three or four days of the week after work. He knew at this point that he had an alcohol problem. Applicant does not remember if he was required to attend any kind of alcohol counseling or treatment associated with this Article 15. (Tr. p. 97.)

In April 2023, Applicant was arrested and charged with driving under the influence, reckless driving, and refusing to perform a sobriety test. Applicant's blood alcohol content was measured at .22. Applicant explained that he was recently divorced, and was still consuming alcohol to deal with his depression and anxiety. His daughters were living in California, and he rarely saw them. He went to a bar and consumed alcohol to the point of intoxication. He stated that he probably consumed about six beers, maybe more, and the type of beers he had were very strong. He then drove recklessly from the bar to his residence in an attempt to commit suicide. He deliberately sped the car up, and crashed the car into a neighbors backyard, with the intent to end his life. Someone called the police, and they arrived on the scene within minutes. The police pulled the Applicant out of the car, and asked if he wanted treatment. He refused. The police detected signs of intoxication, arrested Applicant and took him down to the station and administered a breathalyzer. (Government Exhibits 4 and 5.) In court, Applicant took a plea agreement, and the initial charges against him were reduced to driving while ability impaired. He was ordered to complete 48 hours of community service, attend Level 2 education and therapy, attend MADD, Victim Panel, placed on supervisory probation for two years, and required to pay court

fees and fines. Although Applicant's probation is no longer supervisory as of July 3, 2025, Applicant remains on probation for this offense until sometime in December 2025. (Applicant's Exhibit V.)

Two months later, in June 2023, Applicant was arrested and charged with felony child abuse, and felony assault on a police officer. Applicant was intoxicated at the time of this arrest. He explained that his daughters were visiting him during the summer. He took them to church and then went to the store to purchase some alcohol. He bought a bottle, came home and started drinking double shots. The police report indicates a that a physical altercation started between him and his daughters. He grabbed one of his daughters by the hair pulling her off the ground. He grabbed the other daughter by the throat throwing her onto a bed. At some point, his daughters told him that he was being mean to them. His daughters then went to a neighbor's house, and the neighbors called the police. When the police arrived, they tried to conduct an investigation and they wanted to ask Applicant's daughters some questions. Applicant told the officers that they could not talk to his daughters without his consent. The police ended up restraining the Applicant, and in that attempt, one of the officer's fingers was injured. Applicant stated that he also accidentally kicked one of the officers. (Tr. pp. 69-70.) Applicant was arrested and booked in county jail. A protective order was entered against the Applicant preventing him from any communications with his daughters. A new protective order now allows him to communicate with his children, but he may not intimidate, harass, or engage in any witness tampering concerning the pending case. (Tr. p. 124.)

Applicant's attorney for the above case, who also represented him in the April 2023 case that was still pending, requested that the court run both cases concurrently. Applicant pled guilty to a misdemeanor assault in the third degree of a police officer. He was sentenced to pay fines; complete community service, take level 2 alcohol classes, placed on supervised probation that has now been reduced to unsupervised probation for two years, to run concurrently for both the April 2023 and June 2023 cases. Applicant's probation is scheduled to end in December 2025. The DUI charge was dropped (Tr. pp. 72-23, and Government Exhibit 6.)

Following his DUI arrest in April 2023, and before his arrest in June 2023, Applicant received a letter from the Army indicating that they were initiating the NJP process and they wanted documentation from the civilian court about the charges. Applicant was given several options, but decided to get out of the Army within six months to be able to receive an honorable discharge and keep his military benefits. Applicant was separated from the Army in December 2023. His divorce was final in July 2023. He pays child support and alimony of \$1,577 monthly. (Tr. p. 125.)

After his divorce and while transitioning out of the Army, Applicant continued to drink excessively. His last use of alcohol was in October 2023. From about April 2023 to February 2024, he has received court-ordered out-patient substance abuse treatment. He was diagnosed with anxiety, depression, and alcohol dependency.

Applicant was prescribed medication for his alcohol cravings. He last took this medication just six months before the hearing. Applicant is also enrolling in substance abuse psychotherapy appointments. He stated that he believes that he has seen improvement. He stated that he no longer wakes up with hangovers or stomachaches, and he does not feel depressed. He is able to manage anxiety much better. He also has a better relationship with his daughters. His Mother sees a change in his him with her. He stated that removing alcohol completely out of his life has been a blessing. (Tr. p 80.) He also stated that he has no intention of ever consuming alcohol again. (Tr. p. 80.)

Applicant stated that he has continued with alcohol treatment programs, consisting of either counseling, therapy, or both from May 2023 to May 2024. He then enrolled in therapy with a doctor at the VA that he saw until May 2025. In an effort to continue his alcohol rehabilitation treatment, he recently enrolled in a program that will start sometime in September. (Tr. p. 109-110.)

A letter from Applicant's psychiatrist dated March 12, 2025, indicates that Applicant has been under his care since February 13, 2024. He has been diagnosed with major depressive disorder, a history of alcohol use disorder, and is 30% connected for dysthymic disorder. Applicant is medication compliant and is engaged in his psychiatric medication management care. (Applicant's Exhibit T.)

A letter from a licensed psychologist who evaluated Applicant on April 7, 2025, indicated that Applicant does not currently meet the criteria for any mental health conditions. His service records and civilian work records indicate that he is a high achieving individual. There were no psychological conditions that could impair his judgment and ability to safeguard sensitive information. (Applicant's Exhibit U.)

Applicant testified that he has learned from his past experiences that his children are first and foremost, and that he must abstain from alcohol. He realizes that his decisions have repercussions, his behavior modification is paramount, and how to identify certain triggers that cause his problems. (Tr. pp. 76-77.)

Three witnesses testified on Applicant's behalf. An Army Sergeant testified that Applicant was one of his leaders in the Army at one time. He considers the Applicant to be a hard worker, who is very dedicated and honest. He understands that he has stopped consuming alcohol. (Tr. pp. 20-27.) A Staff Sergeant testified that at one time he was stationed with the Applicant. Applicant was his NCOIC for about six months before he moved to another duty station. He believes Applicant is trustworthy and honest, and recommends him for a security clearance. (Tr. pp. 29-37.) A third witness who called into the TEAMS hearing testified; but did not have camera access and could not be seen. He testified that he is currently a full-time student in college, but at one time he served in the Army with the Applicant, and they were in the same unit. He considers the Applicant to be hardworking, dedicated, and trustworthy. He has never

witnessed the Applicant under the influence of alcohol, and he does not believe that Applicant would ever divulge national security secrets unlawfully. (Tr. p. 38-51.)

A letter of recommendation from a Sergeant First Class, who served in the same unit as the Applicant in the Army, indicates that Applicant now demonstrates maturity, self-awareness, and a strong commitment to remain sober. He considers Applicant to be one of the most dependable and motivated individuals he knows in the workplace. He also considers the Applicant to be a devoted father of two children, who is committed to being a role model for them instilling the values of integrity, responsibility and perseverance. (Applicant's Exhibit D.)

Applicant has received numerous awards, commendations, and medals for his military service. (Applicant's Exhibit E.)

Performance evaluations of the Applicant for the periods from 2016 through 2024, reflect ratings that he either "met" or "exceeded standards" in almost all categories. (Applicant's Exhibit F.)

Documentation demonstrating that Applicant is continuing to work towards a sober lifestyle include the following: a Statement of Intent (unsigned); PeTH test results; a Behavior Modification Course Certificate; a Treatment Participation Memorandum; a Certificate from Center of Fathering; a MADD VIP Certificate; Proof of Community Service Completion; Proof of Court Fines Payment; a Letter from a Psychiatrist; and a Psychological Evaluation from another doctor. (Applicant's Exhibits R, S, H, I, L, M, O, P, T and U.)

Policies

When evaluating an applicant's suitability for a security clearance, the administrative judge must consider the adjudicative guidelines (AG). 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 AG ¶ 2 describing the adjudicative process. The administrative judge's overarching adjudicative goal is a fair, impartial, and commonsense decision. According to AG ¶ 2(a), 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.” In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record.

Directive ¶ E3.1.14, requires the Government to present evidence that establishes 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, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.”

A person who applies for access to classified information seeks to enter 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 protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to 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

Guideline G, Alcohol Consumption

AG ¶ 21 expresses the security concern pertaining to 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 ¶ 22 describes conditions that could raise a security concern and may be disqualifying. The disqualifying conditions raised by the evidence are:

(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 with alcohol use disorder;

- (c) habitual or binge consumption of alcohol to the point of impaired judgment, regardless of whether the individual is diagnosed with alcohol use disorder;
- (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;
- (e) the failure to follow treatment advice once diagnosed; and
- (f) alcohol consumption, which is not in accordance with treatment recommendations after a diagnosis of alcohol use disorder.

Applicant's history of alcohol abuse occurred while in the military and then as a civilian from at least 2020 to the present. He was involved in two Article 15's, and an arrest and charge for DUI, Reckless Driving, Refusal to Perform Sobriety Tests; Felony Child Abuse; Felony Assault on a Police Officer; and a diagnosis of alcohol dependency. After completing his first alcohol treatment program, he had one year of sobriety from June 2020 to June 2021, followed by a relapse. Then more alcohol treatment programs, including counseling and therapy. These incidents raise security concerns under AG ¶¶ 22(a), 22 (c), 22(d), 22(e), and 22(f), set forth above.

AG ¶ 23 provides 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 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);
- (c) the individual is a current employee who is participating in a counseling or treatment program, has no history of previous treatment and relapse, and is making satisfactory progress; 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 professional or a licensed clinical social worker who is a staff member of a recognized alcohol treatment program.

Applicant is an alcoholic who is in the midst of battling his addiction. He is also recently divorced which adds another element to the picture. He has a fairly recent history of excessive drinking with a one-year period of abstinence followed by a relapse. His last use of alcohol was in October 2023. If this is so, Applicant has been sober for about 23 months. Just six months ago he was using prescribed medication to curb his urges to consume alcohol. Applicant is commended for his efforts and encouraged to continue living a sober lifestyle. However, given his extensive history of alcohol consumption, more time in sobriety is needed in order to show the Government that he can be trusted and that he will not return to his old ways. Applicant must continue to show that he can maintain sobriety, and that future alcohol abuse and related misconduct is unlikely to occur. At this time, Applicant has failed to meet his burden to mitigate his alcohol consumption security concerns.

Guideline J, Criminal Conduct

The security concern relating to the guideline for Criminal Conduct is set out in AG ¶ 30:

Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness. By its very nature, it calls into question a person's ability or willingness to comply with laws, rules and regulations.

AG ¶ 31 describes conditions that could raise a security concern and may be disqualifying. The following are potentially applicable:

- (a) a pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual's judgement, reliability, or trustworthiness;
- (b) evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted or convicted; and
- (c) individual is currently on parole or probation.

The guideline at AG ¶ 32 contains conditions that could mitigate security concerns. None of the mitigating conditions are applicable:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur

and does not cast doubt on the individual's reliability, trustworthiness, or good judgment; and

(d) there is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Applicant's recent criminal record involving alcohol abuse shows a pattern of poor judgment, unreliability, and untrustworthiness. His civilian arrests, charges, and convictions in April 2023 and June 2023, and his military NJP's involving criminal conduct are described above and demonstrate a failure to comply with the law. In totality, his misconduct calls into question his ability to follow rules, laws, and regulations. On the other hand, Applicant has recently acknowledged the seriousness of his alcohol condition and has taken some steps to address his problem. He contends that he has been sober this time for about 23 months. He is commended for this effort. However, given his criminal history with alcohol-related arrests, coupled with the extent of his alcoholism, a recent divorce, a recent transition from military service, and he remains on probation for his two alcohol-related offenses until December 2025, more time is needed to show the Government that he can stabilize in his new life and remain alcohol free without difficulty. At this time, it is too soon to trust him with the national secrets. There are still serious concerns about his judgment, reliability, and trustworthiness, both because of the nature of the offenses, and the circumstances surrounding the offenses. The before-mentioned disqualifying conditions have been established and are not mitigated.

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 considered the potentially disqualifying and mitigating conditions in light of all facts and circumstances surrounding this case. I have incorporated my comments under Guidelines G and J, in my whole-person analysis. Based upon the facts and analysis set forth above, Applicant has failed to provide sufficient evidence to demonstrate that he meets the qualifications for a security clearance.

Overall, the record evidence leaves me with questions and doubts as to Applicant's eligibility and suitability for a security clearance. For all these reasons, I conclude Applicant failed to mitigate the Alcohol Consumption and Criminal Conduct security concerns.

Formal Findings

Formal findings for or against Applicant on the allegations set forth in the SOR, as required by ¶ E3.1.25 of the Directive, are:

Paragraph 1, Guideline G: **AGAINST APPLICANT**

Subparagraphs 1.a through 1.f. **Against Applicant**

Paragraph 2, Guideline J: **AGAINST APPLICANT**

Subparagraph 2.a **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 national security eligibility for a security clearance. Eligibility for access to classified information is denied.

Darlene Lokey Anderson
Administrative Judge