



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



In the matter of:)
)
) ISCR Case No. 24-01962
)
Applicant for Security Clearance)

Appearances

For Government: George Hawkins, Esq., Department Counsel
For Applicant: Matthew Thomas, Esq.

11/28/2025

Decision

HYAMS, Ross D., Administrative Judge:

Applicant mitigated the alcohol consumption and personal conduct security concerns. Eligibility for access to classified information is granted.

Statement of the Case

On January 17, 2025, the Defense Counterintelligence and Security Agency (DCSA) issued a Statement of Reasons (SOR) to Applicant detailing security concerns under Guideline G (alcohol consumption) and Guideline E (personal conduct). Applicant answered the SOR on March 24, 2025, and requested a hearing before an administrative judge. The case was assigned to me on April 24, 2025.

The hearing convened on April 28, 2025. Department Counsel submitted Government Exhibits (GE) 1-14, which were admitted in evidence without objection. Department Counsel requested that I take administrative notice of a portion of the Diagnostic and Statistical Manual of Mental Disorders 5th Edition (DSM-5) concerning Alcohol Use Disorder, which I marked as Administrative Notice Exhibit (AN) 1. Applicant submitted Applicant's Exhibits (AE) A-F, which were admitted without objection.

I kept the record open for 30 days to allow Applicant to provide information to address three new SOR allegations that were added at the start of the hearing. Department Counsel submitted GE 15-16, documentation that he sought after the completion of the hearing (HE 4). The information needed to locate these records could have been easily obtained, such as through a simple interrogatory, prior to the hearing. These two exhibits were admitted without objection.

Department Counsel also submitted additional argument for consideration (HE 4). Applicant objected to the submission (HE 5). That objection is sustained. Applicant submitted AE G, to address the new allegations, which was admitted without objection.

The completion of this decision was delayed when all administrative judges were furloughed from October 1 through November 12, 2025, during a federal government shutdown due to a lapse in federal funding.

Amendment to the SOR

At the start of the hearing, Department Counsel requested to amend the SOR to add ¶¶ 1.f-1.h (HE 3). The allegations state the following:

1.f. In May of 2015, after leaving a sports bar you were arrested for holding a firearm during an altercation with another person.

1.g. In January 2017, after consuming alcohol, you were involved in a domestic violence incident that resulted in the police being called.

1.h. In August 2017, after consuming alcohol, you were involved in a domestic violence incident with the mother of your children.

The motion to amend the SOR at hearing was granted without objection. (Tr. 8-11)

Post-Hearing Request to Amend the SOR

On May 5, 2025, one week after the hearing had concluded, Department Counsel requested to amend the SOR to add a new Guideline E allegation (HE 4). Paragraph E3.1.17 of DoDD 5220.6 does not provide for post-hearing SOR amendments. Paragraph E3.1.10 states that the Administrative Judge should conduct all proceedings in a fair, timely, and orderly manner. For these reasons, the post-hearing request to amend the SOR was denied (HE 6).

Findings of Fact

In his Answer, Applicant admitted SOR allegations, ¶¶ 1.a-1.e and 2.a-2.b. His admissions are incorporated into the findings of fact. Based on my review of the pleadings, evidence submitted, and testimony, I make the following findings of fact.

Applicant is 37 years old. He has been employed by a defense contractor as an engineer since 2018. He was married from 2017-2019 and has six minor children. He graduated high school in 2003 and completed three years of college classes from 2005-2008. He is currently reenrolled in college to complete his bachelor's degree. He served on active duty in the Army from 2009-2018 and was honorably discharged. He was deployed twice to combat zones during his service. (Tr. 18-23; GE 1, 2; AE D)

The SOR alleges the following alcohol consumption security concerns:

SOR ¶ 1.a alleged Applicant consumed alcohol, at times in excess and to the point of intoxication, from age 17 to at least November 2022. This allegation was cross alleged under Guideline E. While Applicant admitted this allegation in his Answer, he testified that he has not consumed alcohol since 2019. After his last alcohol related incident in November 2019, he realized he needed to change and made a firm choice to eliminate alcohol consumption from his life. (Tr. 49-131)

Applicant reported while serving in the Army, drinking alcohol was heavily encouraged. As a unit, they worked hard and partied hard. As he got older, his drinking dramatically reduced and was only done at social events. He further slowed down drinking after 2017. After the 2019 DUI, he realized he had to completely stop drinking. He has no intent to consume alcohol again. He realized he can have a good time without it. Abstinence from alcohol has changed his life and health for the better. In the past six years he has been promoted at work and coaches sports in his community. He no longer sees old friends with whom he would get in trouble, he lives in a different state (State B) from his son's mother, and he has a better and more mature group of friends. (Tr. 49-131)

Post-hearing, Applicant provided ten character letters from friends who stated they have not seen him drink alcohol since 2019. (AE G)

SOR ¶ 1.b alleged Applicant was arrested in November 2019 and charged with Driving Under the Influence (DUI), Failure to Maintain Lane, and Improper Turn. This allegation was cross alleged under Guideline E. He reported he was in State A at Thanksgiving and went out for the evening with his siblings. He stated he was stopped for making an improper left turn and was found to be intoxicated after a field sobriety test. Although the case was ultimately dismissed, he admitted he was drinking and driving. After this incident, he knew something had to change. He reported that something clicked, and he said to himself, "Never again." He realized that he had to cut out all alcohol and the problems would stop. This was his last alcohol related incident. (Tr. 49-131; GE 5, 10, 11, 12)

SOR ¶ 1.c alleged Applicant was arrested in State A in February 2017 and charged with DUI and Failure to Maintain Lane. This allegation was cross alleged under Guideline E. He reported going out for a friend's birthday in a city known for its nightlife. They consumed a lot of alcohol, and he was later pulled over for driving too slowly. Although

the charge was downgraded to reckless driving, he admitted he was drinking and driving. He was still in the military at the time, and stated he reported the arrest to his chain of command. (Tr. 49-131; GE 3, 4, 8, 9)

SOR ¶ 1.d alleged Applicant was arrested in State A in March 2013 and charged with DUI and Driving with an Unlawful Alcohol Concentration. This allegation was cross alleged under Guideline E. He reported going out for a friend's birthday and consuming alcohol. On the way home, he was stopped at a checkpoint and arrested for DUI. Although the charge was downgraded to reckless driving, he admitted he was drinking and driving. (Tr. 49-131; GE 3, 4, 6, 7)

SOR ¶ 1.e alleged Applicant received alcohol treatment at Substance Use Disorder Clinical Care (SUDCC), on a military base in State A, from about February 2017 to about November 2017, for a condition diagnosed as Substance Use Disorder. He reported the treatment was in a group setting. The group discussed how alcohol was a coping mechanism to deal with relationship problems and gave alternate options for them to use to cope with their feelings. He reported to them that he was an occasional drinker. He successfully completed the program. He stated that he was not told that he had Substance Use Disorder or Alcohol Use Disorder, and he was not told that he must stop drinking. He stated he was told to have a plan if he drank alcohol, so he would not have any more DUI arrests. (Tr. 49-131; GE 14; HE 7)

There is no documentation in the record showing that Applicant was diagnosed with Substance Use Disorder, as alleged, or Alcohol Use Disorder. The DSM-5 extract in the record regards Alcohol Use Disorder. The DSM-5 states that sustained remission of Alcohol Use Disorder occurs when none of the criteria for Alcohol Use Disorder have been met for a period of 12 months or longer. (Tr. 49-131; AN 1; AE F)

SOR ¶ 1.f alleges that in May of 2015, after leaving a sports bar, Applicant was arrested for holding a firearm during an altercation with another person. He reported he was at a pool hall with a friend during the daytime. They were laughing together while leaving, and an intoxicated patron outside of the pool hall thought they were laughing at him. The intoxicated man started a confrontation and retrieved a gun from his car. In response, Applicant's friend felt threatened by the man and retrieved a gun from his car. Applicant was given the gun by his friend for a short time, before returning it to his friend. They were protected behind cover during this time for their defense. The police responded to the incident and all three were arrested at the scene. Applicant testified he was not drinking and was not intoxicated at that time. Applicant was never charged with anything from this incident, and the charges were dropped against his friend. (Tr. 49-131; GE 15, 16)

Post-hearing, the government submitted an arrest record of an incident from April 2015, not May 2015. Applicant's name is not on the police record. The name reporting area states "expunged". In the record, Applicant's testimony is consistent with the individual listed as Suspect # 3. It appears that Applicant's friend is the named party on

the documentation. The report states that everyone had admitted drinking some alcohol at the establishment. It does not state that they were all intoxicated. There was no indication that any sobriety testing was done by police during or after this incident. The report corroborates Applicant's testimony. The man who started the altercation stated that he saw Applicant's friend give Applicant the gun at some point during the altercation, and Applicant never pointed the gun at him. Witnesses interviewed by police corroborated this reporting. Applicant's friend had a valid permit for the gun. There was no evidence that Applicant was intoxicated while holding the gun, and he was never charged for that offense. In the Affidavit of Complaint, Applicant's name is listed. Applicant's friend is only listed on the charging documentation and complaint. The charging document states the charges were dismissed. No documentation was presented showing that Applicant was ever charged regarding this incident. While he was taken into custody, there was no evidence that he had to post bond to be released. His friend was required to post a small bond. (Tr. 49-131; GE 14, 15, 16)

SOR ¶ 1.g alleged Applicant was involved in an alcohol related domestic violence incident, in State A in January 2017, where police were called. He reported he was at his son's mother's house, drinking with her and a family member. They had an on again, off again relationship over a 14-year period. At some point, he went through her phone to look at her texts, and he refused to let her do the same with his phone. He reported there was an infidelity issue, with both parties, in their relationship. When he refused to give her his phone and her phone back, he left the residence. She called police and filed a false report that he hit her, and stole her phone and vehicle. Applicant denied these allegations. He was never arrested for this incident and reported the issue to his command. After this incident, Applicant attended the SUDCC program and the Family Advocacy Program (FAP) to help prevent future issues between them. (Tr. 49-131; GE 14)

SOR ¶ 1.h alleged Applicant was involved in an alcohol related domestic violence incident, in State A in August 2017, with his son's mother. He reported that he and his son's mother were at a bar and encountered a man she had been dating. When they got home, Applicant took her phone to see if she was still communicating with him, and the police were called. He stated they had a difficult, up and down relationship over 14 years, where both parties participated in infidelity, which caused their emotions to boil over. They had good and bad periods of their relationship. There was no physical altercation, and he was not arrested for this incident. (Tr. 49-135; GE 14)

In addition to the cross-allegations referenced above, the SOR alleges the following personal conduct security concerns:

SOR ¶ 2.a alleged that Applicant failed to report the 2019 DUI arrest in ¶ 1.b, as required. The only support for this allegation is that a Continuous Evaluation Report was entered into the Joint Personnel Adjudication System (JPAS) by the DoD Consolidated Adjudication Facility (CAF) in May 2020, requesting more information about Applicant's

2019 DUI arrest. There is no documentation in the record stating that Applicant failed to report the arrest. (GE 13)

Applicant asserted that he verbally reported his DUI arrest to his employer's Facility Security Officer (FSO) shortly after the arrest. He stated he had verbally reported his past DUI arrests to his command FSO and this was the protocol he followed. He is unaware what the FSO did with this information after he reported it to them. He also reported this arrest on his 2024 SCA. His employer's office manager and assistant FSO wrote a character letter on Applicant's behalf in this case. (Tr. 49-135; GE 13; AE B)

Witness One worked with Applicant in 2018 after he left the military, and they remain friends. He reported having seen Applicant drink alcohol once when they worked together, and has not seen him drink since. After a deployment, he lived with Applicant for six months in August 2023-April 2024. He did not witness Applicant drink during that time period. He thinks Applicant is reliable and trustworthy and recommends him for a security clearance. (Tr. 23-39)

Witness Two met Applicant at work in about 2019. She worked in the Human Resources Department for his employer. She knows him professionally and they interact socially as well. Their children have played together, and he has cared for her children. She reported she has never seen him drink alcohol in six years. She thinks Applicant is reliable and trustworthy and recommends him for a security clearance (Tr. 39-48; AE B)

Applicant submitted seven character letters, which endorse him for a security clearance and state he is reliable, trustworthy, and has good judgement. He also submitted professional certifications, a DD 214, and his resume. He provided two academic articles regarding Alcohol Use Disorder, and a Declaration of Intent not to ever use alcohol again. Post-hearing, Applicant provided ten character letters from friends who stated they have not seen him drink alcohol since 2019. (AE A-G)

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

Guideline G, Alcohol Consumption

AG ¶ 21 details the personal conduct security concern:

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.

I have considered the disqualifying conditions for alcohol consumption under AG ¶ 22 and the following are applicable:

- (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

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

I have considered the mitigating conditions under AG ¶ 23. The following 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 judgment; and

(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.

AG ¶¶ 23(a) and (b) apply. Applicant completely stopped consuming alcohol after his last DUI arrest in November 2019. He has been successful in maintaining complete abstinence. He is more mature, moved to a new state (State B), no longer sees old friends, and is focused on work and community activities, such as coaching. There was insufficient evidence in the record to find that Applicant was diagnosed with Substance Use Disorder or Alcohol Use Disorder. Even if he had been diagnosed, he met the DSM-5 criteria for sustained remission after 12 months. In this case, it has been six years without alcohol consumption.

Applicant remains committed to continuing his service to the nation through the defense industry. He provided sufficient evidence to find that enough time has passed, the behavior is unlikely to recur, and these incidents no longer cast doubt on his reliability, trustworthiness, and judgment. He provided sufficient evidence to find that he acknowledged his pattern of maladaptive alcohol use, took actions to overcome the problem, and has demonstrated a clear pattern of modified consumption, in this case abstinence. He also signed a sworn statement of intent not to consume alcohol again. The alcohol consumption security concerns are mitigated.

Guideline E, Personal Conduct

AG ¶ 15 details the personal conduct security concern:

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 investigative or adjudicative processes

I have considered the disqualifying conditions under AG ¶ 16 and the following are potentially applicable:

(b) deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative; and

(c) credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, 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.

I have considered the mitigating conditions under AG ¶ 17. The following is 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.

Applicant has refuted the Guideline E allegation in ¶ 2.a that he failed to report his 2019 DUI arrest, as required, since he credibly testified that he verbally reported the arrest to his employer's FSO.

SOR ¶ 2.b cross-alleged the alcohol consumption allegations in ¶¶ 1.a, 1.b, 1.c, and 1.d. I found for Applicant on these allegations under Guideline G. AG ¶¶ 17(c) and (d) apply. His past alcohol consumption caused a lapse in judgement that led to the DUI

arrests. In November 2019, Applicant determined that his life was incompatible with alcohol consumption and has completely abstained since that time. Enough time has passed and it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on Applicant's reliability, trustworthiness, and judgment. Applicant has 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. The personal conduct security concerns are 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 the facts and circumstances surrounding this case. I have considered the character letters and Applicant's certificates and professional documentation. I have incorporated my comments under Guidelines G and E in my whole-person analysis.

Overall, the record evidence leaves me without questions and doubts about Applicant's eligibility for a security clearance. I conclude that Applicant has mitigated the alcohol consumption and personal conduct 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 F:

FOR APPLICANT

Subparagraphs 1.a-1.h:

For Applicant

Paragraph 2, Guideline E:

FOR APPLICANT

Subparagraphs 2.a-2.b:

For Applicant

Conclusion

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

Ross D. Hyams
Administrative Judge