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**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of:	Personnel Security Hearing)	
)	
Filing Date:	July 23, 2013)	
)	Case No.: PSH-14-0033
)	

Issued: July 3, 2014

Administrative Judge Decision

William M. Schwartz, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter referred to as “the individual”) to hold an access authorization¹ under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, Subpart A, entitled, “General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material.” As discussed below, after carefully considering the record before me in light of the relevant regulations and the Adjudicative Guidelines, I have determined that the individual’s access authorization should be restored.

I. Background

The individual works for a DOE contractor in a position that requires him to maintain a DOE security clearance. On September 26, 2013, he attempted to commit suicide. During a Personnel Security Interview on November 20, 2013, the individual explained the circumstances that led to his suicide attempt, including a diagnosis of and treatment for Post-Traumatic Stress Disorder (PTSD), a stressful workplace environment, and a belief that strangers were invading his privacy in various ways. A DOE consultant psychiatrist evaluated the individual on January 14, 2014, and diagnosed him with PTSD and Delusional Disorder, Persecutory Type. This diagnosis raised security concerns in the opinion of the Local Security Office (LSO), and the LSO suspended the individual’s

¹ Access authorization is defined as “an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material.” 10 C.F.R. § 710.5(a). Such authorization will be referred to variously in this Decision as access authorization or security clearance.

security clearance. On March 11, 2014, the LSO sent a letter (Notification Letter) to the individual advising him that it had reliable information that created a substantial doubt regarding his eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information fell within the purview of one potentially disqualifying criterion set forth in the security regulations at 10 C.F.R. § 710.8, subsection (h) (hereinafter referred to as Criterion H).²

Upon his receipt of the Notification Letter, the individual exercised his right under the Part 710 regulations to request an administrative review hearing, and I was appointed the Administrative Judge in the case. At the hearing that I conducted, the individual presented his own testimony and that of his treating counselor, and the LSO presented the testimony of one witness, a DOE consultant psychiatrist. In addition to the testimonial evidence, the LSO submitted seven numbered exhibits into the record and the individual tendered four exhibits, which I have identified as Exhibits A through D. The hearing transcript in the case will be cited as “Tr.”

II. Regulatory Standard

A. Individual’s Burden

A DOE administrative review proceeding under Part 710 is not a criminal matter, where the government has the burden of proving the defendant guilty beyond a reasonable doubt. Rather, the standard in this proceeding places the burden on the individual because it is designed to protect national security interests. This is not an easy burden for the individual to sustain. The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), *cert. denied*, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that restoring his access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). An individual is thereby afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

² Criterion H concerns information that a person suffers from “[a]n illness of mental condition of a nature which, in the opinion of a psychiatrist or licensed clinical psychologist, causes or may cause a significant defect in judgment or reliability.” 10 C.F.R. § 710.8(h)

B. Basis for the Administrative Judge's Decision

In personnel security cases arising under Part 710, it is my role as the Administrative Judge to issue a decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). I am instructed by the regulations to resolve any doubt as to a person's access authorization eligibility in favor of the national security. *Id.*

III. The Notification Letter and the Security Concerns at Issue

As previously noted, the LSO cites one criterion as the basis for suspending the individual's security clearance, Criterion H. The LSO relies on the opinion of a DOE consultant psychiatrist who determined that the individual meets the criteria for PTSD and Delusional Disorder, Persecutory Type, as set forth in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition (DSM-5). He further determined that each of those conditions is an illness or mental condition that causes or may cause a significant defect in judgment or reliability.

I find that there is ample information in the Notification Letter to support the LSO's reliance on Criterion H. Certain emotional, mental, and personality conditions may raise security concerns where those conditions, in the opinion of a duly qualified mental health professional, impair judgment, reliability, or trustworthiness. *See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information*, issued on December 29, 2005, by the Assistant to the President for National Security Affairs, The White House (Adjudicative Guidelines) at Guideline I. The DOE psychiatrist's conclusion that the individual's PTSD and Delusional Disorder cause, or may cause, a significant defect in judgment or reliability supports my finding in this regard.

IV. Findings of Fact

In 2011, the individual engaged in conversations with strangers on a number of Internet websites and chat rooms. Ex. 7 (Transcript of Personnel Security Interview, November 20, 2013) at 27-31. After divulging some personal information about himself on those sites, the individual perceived that others were collecting information about him, leaving messages on his cell phone and e-mail account, spying on his activities, breaking into his residence and, ultimately, poisoning his food. *Id.* at 31-55. He duly reported these perceived invasions of his privacy to his local counterintelligence (CI) office, as his company's training had encouraged him to do. *Id.* at 51, 63, 66. At the same time, he felt that a number of his co-workers were creating a hostile work environment for him and others. *Id.* at 12-3, 16. He reported several occurrences of such hostile behavior to his supervisor. *Id.* at 17-18, 20. In his opinion, neither the CI office nor his supervisor responded appropriately to his reports, and CI staff moreover frequently discounted his claims, arguing that they were merely coincidences. *Id.* at 69-70. In June 2012, the CI office recommended that the individual undergo a psychiatric evaluation, to which the individual consented. *Id.* at 70. A DOE consultant psychiatrist found that the individual

suffered from Delusional Disorder after concluding that at least some of the privacy invasions the individual claimed to have endured had not in fact occurred. *Id.* at 71, 78.

As a result of that evaluation, the local Employee Assistance Program arranged for the individual to embark upon a treatment program. *Id.* at 85. He met with a counselor weekly for a period of three months, during which time they focused on his paranoia. *Id.* at 86, 88. After several sessions, the counselor came to the opinion that the individual suffered from PTSD and was prescribed Lorazepam in June 2012 for his anxiety. *Id.* at 89-90, 104. Although the treatment provided some relief, the problems persisted, and by September 26, 2013, the individual felt hopeless and responded to his feelings by attempting suicide, taking 20 to 30 Lorazepam in conjunction with consuming about a quarter of a bottle of vodka. *Id.* at 148, 150. He telephoned his sister immediately, and she arranged for his rescue. *Id.* at 149. Following an emergency room visit, he was released and resumed treatment with his counselor. *Id.* at 153; Tr. at 94-95. When he returned to work in November 2013 from his medical leave, the LSO interviewed him and referred him for a second psychiatric evaluation, in light of the concerns raised by his suicide attempt. A different DOE consultant psychiatrist (DOE psychiatrist) evaluated him in January 2014 and determined that he met the DSM-5 criteria for both PTSD and Delusional Disorder, Persecutory Type. Ex. 4 (DOE Psychiatrist's Psychiatric Assessment, January 28, 2014) at 11. He recommended that the individual show at least six months of control of the symptoms of each condition such "that they do not interfere with his functioning" and absence of any suicidal ideation, before being re-assessed to determine whether either condition no longer causes or may cause a significant defect in judgment or reliability. *Id.* at 10.

At the hearing, the individual testified about his progress since seeing the DOE psychiatrist. He meets with his counselor weekly. They focus mainly on cognitive behavioral therapy, which helps him realign his thought processes. Whereas he formerly faced stressful situations by perceiving only their negative aspects and jumping to conclusions, he now is better able to see them objectively and respond more appropriately. Tr. at 18-20, 24-25. He no longer believes that others are willfully invading his privacy, and dates his last perceived stalking to January or February 2014. *Id.* at 11. He maintains that he has had no suicidal ideations since September 26, 2013, the day on which he attempted suicide. *Id.* at 43, 60. Although he has faced stressful circumstances since then, in particular, the suspension of his security clearance in February 2014, he felt hopeless but not suicidal, and he is not overwhelmed by those feelings. *Id.* at 25-26, 43-44, 61. Moreover, though he continues to suffer PTSD-induced flashbacks on a daily basis, his treatment now allows him to "take charge" of them, limiting their intensity and their effect on him. *Id.* at 62-64. He stated that he has a system available to support him as stresses and crises arise, which includes his counselor, his doctor of Oriental Medicine, his siblings, a good friend who lives nearby, and a long-time friend who is a therapist. *Id.* at 35-36, 70-71. Finally, the individual testified that prior to therapy he distrusted people; he is now more open and trustful, which allows his support system to help him when he needs the help. *Id.* at 17, 36.

The individual's counselor testified that she has been counseling him regarding his PTSD since September 2012. *Id.* at 93. Although the individual was initially sent to her by the Employee Assistance Program for treatment, he elected to continue meeting with her after those required sessions were completed. *Id.* at 89. She testified that, in addition to

the PTSD that has been the focus of the individual's treatment, the individual's meets the diagnostic criteria for Delusional Disorder. *Id.* at 95. Nevertheless, she stated her opinion that the individual has made significant progress since his September 2013 suicide attempt, that he now possesses sufficient good judgment to return to work, and that his prognosis is moderate to good. *Id.* at 92-93. Responding to the DOE psychiatrist's questions, the counselor offered her opinion that the individual is not currently suicidal, and that he has no defects in judgment or reliability; moreover, he has the good judgment to know when he needs extra help and reaches out for it appropriately. *Id.* at 97. She found the individual to be free from PTSD symptoms of impaired judgment for at least six months. *Id.* at 100. Noting that he had not mentioned stalkers in at least eight weeks, she stated that, while the individual was not yet free of symptoms of Delusional Disorder for six months, he was "still working on it." *Id.* at 101.

After the testimony of the other witnesses, the DOE psychiatrist testified that, in his opinion, the individual had demonstrated adequate evidence of rehabilitation from his PTSD and Delusional Disorder. He stated his opinion that cognitive behavioral therapy, which the individual was engaged in with his counselor, is the preferred form of treatment not only for his PTSD but also for his Delusional Disorder, because the delusions arise from faulty thinking and not from hallucinations. *Id.* at 84. He found that the individual's condition was greatly improved from when he evaluated him in January 2014. *Id.* at 106. In support of his position, he stated that the individual has learned some adaptive skills for coping with stress and how to reach out for and accept help from an improved support system. *Id.* at 107, 110. He specifically stated that the individual's risk of future suicide attempts was low. *Id.* at 109. He also stated that the individual was intelligent and knows how to use his therapy, and has made good use of his therapy, to change his behavior. *Id.* at 108. The DOE psychiatrist stressed that PTSD is not a condition that resolves itself, but that, at best, the sufferer accepts it as a part of his or her person and the symptoms either disappear or "become so infrequent that they don't interfere with anyone's functioning." *Id.* at 111. He stated that he believed the individual's Delusional Disorder stems from his PTSD. *Id.* at 108. He agreed with the counselor's opinion that the individual's prognosis was moderate to good. *Id.* Finally, the DOE psychiatrist reassessed the individual on the basis of the testimony and found that the individual had substantially met the conditions he laid out in his evaluative report. He concluded that the individual had maintained control of the symptoms regarding his PTSD and suicidality for at least six months. *Id.* at 114. With respect to the Delusional Disorder, the DOE psychiatrist placed the individual's last perception of being stalked in mid-January, about four-and-a-half months before the hearing. *Id.* at 107. Although the individual's symptom-free period fell somewhat short of the six months' duration he had recommended in his report, the DOE psychiatrist agreed with the counselor that the individual was "well on his way," and found that the condition did not cause a defect in judgment or reliability at the time of the hearing. *Id.* at 114-15.

V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the individual's access

authorization should be restored. I find that restoring the individual's DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The specific findings that I make in support of this decision are discussed below.

I find that the individual was properly diagnosed as suffering from PTSD and Delusional Disorder. Nevertheless, the record, in particular, the testimony of the individual and his counselor, establishes six months of control of PTSD symptoms and suicidal ideation, and a period of control of Delusional Disorder symptoms sufficient to satisfy the DOE psychiatrist that the disorder no longer raises concerns about his judgment or reliability. The concurrence of the mental health experts regarding his current status demonstrates to me the confidence they have in the individual's progress through treatment and his freedom from significant defects in judgment. Furthermore, I am convinced that, through his counseling, the individual has learned to trust others and to become more receptive to the help and support of others, both of which are very important in the treatment of PTSD, according to the DOE psychiatrist. Tr. at 110. I have taken into consideration a number of mitigating factors in his favor, specifically, that the identified mental health conditions are readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan; that he has voluntarily entered a counseling and treatment program for conditions that are amenable to treatment; that a duly qualified mental health professional is providing treatment and has rendered a favorable prognosis; and that the DOE psychiatrist has provided a recent opinion that the conditions are under control. Adjudicative Guidelines at Guideline I, ¶ 29. After considering all the testimony and written evidence in the record, I am convinced that the individual has resolved the LSO's security concerns that arise from his PTSD and Delusional Disorder.

VI. Conclusion

In the above analysis, I have found that there was sufficient derogatory information in the possession of the DOE that raises serious security concerns under Criterion H. After considering all the relevant information, favorable and unfavorable, in a comprehensive common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I have found that the individual has brought forth sufficient evidence to mitigate the security concerns associated with this criterion. I therefore find that restoring the individual's access authorization will not endanger the common defense and is clearly consistent with the national interest. Accordingly, I have determined that the individual's access authorization should be restored.

William M. Schwartz
Administrative Judge
Office of Hearings and Appeals
Date: July 3, 2014