

information raised security concerns under “Guideline G, Alcohol Consumption” of the Adjudicative Guidelines. *Id.* at 4.

The Individual requested a hearing and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge, and I conducted an administrative hearing pursuant to 10 C.F.R. § 710.25(e). The LSO submitted six exhibits, marked as Exhibits 1 through 6, and offered the testimony of the DOE Psychologist. The Individual submitted two exhibits, marked as Exhibits A and B, and offered the testimony of two witnesses including herself.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline G (Alcohol Consumption) as the basis for denying the Individual a security clearance. Ex. 1 at 4.

“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.” Adjudicative Guidelines at ¶ 21. The DOE Psychologist’s diagnosis of the Individual with AUD, Moderate, justifies the LSO’s invocation of Guideline G. Adjudicative Guidelines at ¶ 22(d).

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of 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). 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 granting or restoring 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). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue. Adjudicative Guidelines at ¶ 22(a), (c)–(d).

IV. FINDINGS OF FACT

On July 9, 2019, the Individual notified the LSO via e-mail that she had voluntarily admitted herself for in-patient treatment at the Treatment Center. Ex. 4 at 2. In her e-mail to the LSO, the Individual explained that she had stopped consuming alcohol in July 2018 after she recognized that she was consuming alcohol to excess, and that she had abstained from alcohol consumption until November 2018, but that she had resumed consuming alcohol to excess as a coping mechanism after XXXXX. *Id.* The Individual reported to the LSO that she had completed a 28-day in-patient treatment program at the Treatment Center, scheduled an outpatient intake appointment at the Treatment Center, and planned to attend AA meetings on an ongoing basis to support her recovery. *Id.*

In October 2019, the LSO issued letters of interrogatory to the Individual's treatment providers at the Treatment Center concerning her treatment and prognosis. The first treatment provider reported that he had seen the Individual for outpatient counseling on two occasions since she completed the in-patient treatment program, that he was treating the Individual for "alcoholism" and psychological conditions, and that the Individual was "doing very well overall." Ex. 6 at 1-2. The second medical professional, who treated the Individual during the in-patient treatment program, reported that the Individual's prognosis was "fair" if she abstained from alcohol and pursued appropriate treatment. Ex. 5 at 2. The second medical professional noted that the Individual had previously received in-patient treatment related to alcohol use in 2017. *Id.*

The DOE Psychologist conducted a clinical interview of the Individual in December 2019. The Individual reported to the DOE Psychologist that her drinking increased progressively over time, and that by late 2016 or early 2017 she consumed two bottles of wine nightly in two to three hours. Ex. 3 at 4-5. The DOE Psychologist estimated that the Individual's blood alcohol content (BAC) reached approximately .18% nightly. *Id.* at 5. The Individual noted during the interview that, although she felt intoxicated each night, she was careful to ensure that her alcohol consumption did not affect her work. *Id.*

The Individual reported that she stopped consuming alcohol from July 2018 to November 2018 after her mother expressed concerns about her drinking, but resumed consuming alcohol to excess after XXXXX in November 2018. *Id.* The Individual decided to seek treatment at the Treatment Center in June 2019 after several of her family members expressed concern related to the volume of her alcohol consumption. *Id.* The Individual told the DOE Psychologist that she had abstained from alcohol since June 4, 2019, that she was attending counseling at an outpatient treatment center (Outpatient Center), and that the Outpatient Center verified her abstinence with monthly urine tests. *Id.*

The DOE Psychologist administered the Minnesota Multiphasic Personality Inventory-2, Restructured Form (MMPI-2-RF) to the Individual. *Id.* at 6. The DOE Psychologist interpreted the results of the MMPI-2-RF to show that the Individual was forthcoming and non-defensive in her responses. *Id.* The DOE Psychologist also directed the Individual to obtain ethyl glucuronide (EtG) and phosphatidylethanol (PEth) laboratory tests to determine whether she had recently consumed alcohol. *Id.* A psychiatrist who reviewed the results of the laboratory tests notified the DOE Psychologist that the tests were negative, and explained that the negative tests results demonstrated that the Individual had not consumed any alcohol within at least three days of the tests and that she

had not consumed alcohol on a regular, heavy basis for approximately twenty-eight days prior to the tests. *Id.* at 5.

In his Report, the DOE Psychologist concluded that the Individual met the diagnostic criteria for AUD, Moderate, under the *DSM-5*. *Id.* at 6. The DOE Psychologist recommended that the Individual demonstrate rehabilitation or reformation by continuing to abstain from alcohol, and to support her abstinence from alcohol by pursuing counseling at the Outpatient Center for at least six more months. Additionally, the DOE Psychologist recommended that the Individual attend AA consistently, work with an AA sponsor, and attend XXXXXX counseling XXXXXX. *Id.* at 7.

The Hearing

A licensed professional counselor (LPC) testified that she facilitates a recovery group which the Individual attends at the Outpatient Center. Tr. at 8–9. The LPC testified that the Individual had undergone monthly urine testing for traces of alcohol, and that each of the tests had come back negative. *Id.* 11, 15. The LPC testified that the urine screens measured whether an individual consumed alcohol within three to four days prior to the test. *Id.* at 16.² The LPC noted that she believed that the Individual’s motivation to remain sober was supported by her desire to act as a good parent to her son and that this motivation, in addition to her attendance at AA meetings, was effective. *Id.* at 16–17. The LPC also testified that the Individual did not participate in one-on-one counseling, which was not required by the Outpatient Center at this stage in her recovery, but that she did participate in periodic check-in meetings. *Id.* at 17, 20. The LPC expressed the opinion that the Individual’s prognosis for avoiding returning to problematic alcohol consumption was “good.” *Id.* at 21.

The Individual testified that she recognized her problem with alcohol consumption and that she now understood that she cannot safely consume alcohol again for the rest of her life. *Id.* at 28. The Individual asserted that she had followed all of the Treatment Center’s recommendations after completing the treatment program, and had attended weekly AA meetings. *Id.* at 25–28. The Individual indicated that all of her family and friends were aware of the situation, and that she was not exposed to situations in which she would be offered alcohol. *Id.* at 28. The Individual also testified that she completed XXXXX counseling, as the DOE Psychologist recommended, which she believed was another important part of her recovery. *Id.* at 29; *see also* Ex. B (reflecting the Individual’s enrollment in the XXXXX counseling). The Individual indicated that she was working on the fourth step of the AA program, and expressed that she had experienced difficulties in working through relationships with important figures in her life, but that XXXXX counseling was helping her in that area. Tr. at 33–34.

The Individual indicated that she believed that, although she had relapsed previously after abstaining from alcohol, she would not relapse again because she had developed an understanding of alcoholism and a commitment to sobriety that she lacked in the past. *Id.* at 37–38. The Individual reported that she would now reach out to her AA sponsor or co-participants if she felt the urge to drink, and that she could also rely on her friends and family. *Id.* at 39. The Individual denied that she had received in-patient treatment for alcohol abuse prior to attending the Treatment Center,

² The Individual testified that she had not been tested since the group had “gone remote” as a result of the COVID-19 pandemic. Tr. at 35.

contrary to the Treatment Center's response to the LOI, and speculated that the representative of the Treatment Center who responded to the LOI must have provided that response based on a hospitalization for pneumonia in 2017 during which the Individual claimed that she was told that "alcohol could have contributed to [her] getting pneumonia." *Id.* at 41.

The DOE Psychologist testified that, at the time he issued his Report, the Individual had abstained from alcohol for approximately five months and that this period of time was insufficient to establish sustained remission. *Id.* at 57. The DOE Psychologist opined that, based on the information that he had learned during the hearing, the Individual had demonstrated rehabilitation through her abstinence from alcohol for over one year, attendance at XXXXXX counseling, use of family as a support system, and frank testimony regarding her successes and challenges in participating in the AA program. *Id.* at 59–61. The DOE Psychologist also cited as positive the Individual's utilization of support in overcoming COVID-19 and personal stressors without resorting to alcohol. *Id.* at 61–62. The DOE Psychologist speculated that the Individual's prognosis was "quite good to remain ... sober." *Id.* at 62.

V. ANALYSIS

A. Guideline G (Alcohol Consumption)

The DOE Psychologist's diagnosis of the Individual with AUD, Moderate, raises security concerns under Guideline G of the Adjudicative Guidelines. Adjudicative Guidelines at ¶ 22(d). During the hearing, the Individual asserted that she had abstained from consuming alcohol for over one year and had developed coping skills through treatment that would allow her to succeed in abstaining from alcohol in the future. An individual may mitigate security concerns under Guideline G if:

- (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; or,
- (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.

Adjudicative Guidelines at ¶ 23(a)–(d).

In this case, the Individual has acknowledged her maladaptive alcohol use, expressed the intention to abstain from alcohol use in the future, and demonstrated significant positive steps towards overcoming the problem. The Individual testified that she has abstained from alcohol for over one year, and the LPC provided corroborating testimony based upon her knowledge that each of the

Individual's urine tests at the Outpatient Center came back negative for traces of alcohol. The Individual successfully completed the in-patient treatment program at the Treatment Center, pursued counseling at the Outpatient Center for over one year, and testified that she attends AA meetings on a weekly basis. Moreover, the Individual completed XXXXXX counseling recommended by the DOE Psychologist, and has developed a supportive network of family and AA participants who she believes will help her to remain abstinent from alcohol in the future.

Moreover, both the LPC and the DOE Psychologist testified that the Individual has a positive prognosis for abstaining from alcohol going forward, and cited her willingness to rely on her support network and new attitude towards alcohol consumption as positive indicators that she would avoid relapsing into problematic alcohol consumption. The DOE Psychologist testified that the Individual had complied with his treatment recommendations, and that her AUD, Moderate, was in sustained remission. For those reasons, the DOE Psychologist opined that the Individual had demonstrated rehabilitation.

Based on the Individual's approximately thirteen months of abstinence from alcohol, acknowledgement of her problematic alcohol consumption, completion of treatment and aftercare, and development of a supportive network through AA and her family, as well as the DOE Psychologist's opinion that the Individual's AUD, Moderate, is in sustained remission and that she has a positive prognosis going forward, I find that the Individual has satisfied the second and fourth mitigating conditions under Guideline G. Adjudicative Guidelines at ¶ 23(b), (d). Therefore, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline G.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE that raised security concerns under Guideline G of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has resolved the security concerns asserted by the LSO. Accordingly, I have determined that the Individual's access authorization should be restored. Either party may seek review of this Decision by an Appeal Panel pursuant to 10 C.F.R. § 710.28.

Richard A. Cronin, Jr.
Administrative Judge
Office of Hearings and Appeals