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

In the Matter of: Personnel Security Hearing )  
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Filing Date: March 10, 2021 ) Case No.: PSH-21-0022  
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Issued: May 5, 2021

**Administrative Judge Decision**

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXX - (hereinafter referred to as “the Individual”) to hold an access authorization under the United States 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.”<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should be granted.

**I. Background**

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In May 2019, the Individual completed an Electronic Questionnaire for Investigations Processing (e-QIP). Ex. 6. In response to one of the questions regarding psychological and emotional health, the Individual responded that he had previously been involuntarily admitted for hospitalization for a mental health condition. *Id.* at 54. He additionally revealed that he had been diagnosed with Bipolar Mood Disorder. *Id.* at 55. The Individual later underwent a psychological evaluation by a DOE consultant psychiatrist (Psychiatrist) in February 2020. Ex. 4.

Due to unresolved security concerns related to the Individual’s psychological condition, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding the Individual’s eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline I (Psychological Conditions) of the Adjudicative Guidelines. Ex. 1.

<sup>1</sup> 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.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations by requesting an administrative review hearing. Ex. 1. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted seven numbered exhibits (Exhibits 1-7) into the record and presented the testimony of the Psychiatrist. The Individual introduced one lettered exhibit (Exhibit A) into the record, and presented the testimony of two witnesses, including himself. The exhibits will be cited in this Decision as “Ex.” followed by the appropriate numeric designation. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

## **II. Regulatory Standard**

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) (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 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.

## **III. Notification Letter and Associated Security Concerns**

As previously mentioned, the Notification Letter included a statement of derogatory information that raised concerns about the Individual’s eligibility for access authorization. The information in the letter specifically cites Guideline I of the Adjudicative Guidelines. Guideline I relates to certain emotional, mental and personality conditions that can impair judgment, reliability, or trustworthiness. Guideline I at ¶ 27. An opinion by a duly qualified mental health professional that an individual has a condition that may impair judgment, stability, reliability, or trustworthiness can raise a security concern under Guideline I. *Id.* at ¶ 28(b). Additionally, involuntary inpatient hospitalization for a psychological condition could serve as a disqualifying condition for access authorization eligibility. *Id.* at ¶ 28(c).

As support for citing Guideline I, the LSO cited the Psychiatrist’s report (Report), which concluded that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5) criteria for Bipolar I Disorder. Ex. 1. The LSO additionally cited the Psychiatrist’s

opinion that a Bipolar I Disorder diagnosis can impair judgment, reliability, or trustworthiness. *Id.* As a separate basis for citing Guideline I, the LSO cited two separate occasions (February 2014 and April 2017) during which the Individual was involuntarily hospitalized for mental health treatment. *Id.*

#### **IV. Findings of Fact**

As stated above, the Individual underwent an evaluation with the Psychiatrist in February 2020. Ex.4. The Report revealed that the Individual was first involuntarily hospitalized for psychiatric care in February 2014, “after having a manic event brought on by emotional distress” and poor sleep.<sup>2</sup> Ex. 4 at 4. Following the hospitalization, the Individual was diagnosed with “early bipolar disorder.” *Id.* The Report noted that the Individual again underwent involuntary psychiatric hospitalization in April 2017. *Id.* at 5. The Psychiatrist noted that the Individual was experiencing various stressors at the time of both involuntary hospitalizations, including school-related pressures and intrafamily conflict. *Id.* at 4-5. The Psychiatrist reported that, after the second hospitalization, the Individual and his family “recognized his need for consistent medication treatment, ...which [h]e has maintained...without a new or depressive episode, since mid-2017.” *Id.* at 8.

The Psychiatrist concluded that the Individual met the DSM-5 criteria for Bipolar I Disorder in full remission.<sup>3</sup> *Id.* at 8. He noted that the Individual was utilizing a medication program that was “endorsed by his former psychiatric nurse clinician and primary care doctor as well as his current psychiatrist.” *Id.* The Psychiatrist further reported that the Individual was maintaining regular visits with his psychiatrist, with whom he has a “positive therapeutic alliance.” *Id.* Ultimately, the Psychiatrist determined that although the Individual is “currently stable with treatment and has been so for about two years, additional manic or depressive episodes cannot be ruled out.” *Id.* at 9. He stated that the Individual is not experiencing impaired judgment, stability, reliability, or trustworthiness, but the Individual’s judgment or reliability could be impaired if he were to become manic or severely depressed. *Id.* The Psychiatrist noted that the Individual’s “prognosis for continued stability is favorable.” *Id.*

At the hearing, two witnesses testified on the Individual’s behalf: his supervisor (Supervisor) and the Individual himself. The Supervisor testified that the Individual had worked with him for nearly two years, and, in that time, he was able to conclude that the Individual was “very trustworthy” and “very reliable.” Tr. at 13. He stated that he had never seen the Individual display any sort of concerning behavior. *Id.* at 15.

The Individual did not dispute the allegations stated in the Summary of Security Concerns but sought to demonstrate that he had mitigated the security concerns. *Id.* at 42. The Individual testified that, following his second hospitalization in 2017, “it became clear that [he] actually did have a condition,” and he began learning about his diagnosis, how it affected him, and how to proactively treat it. *Id.* at 19-20. The Individual explained that within a few months of his second hospitalization, he began consistently taking medication, and once he was given a treatment plan,

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<sup>2</sup> In February 2014, at the time of the involuntary hospitalization, the Individual was a minor. Ex. 4 at 5.

<sup>3</sup> The Psychiatrist noted that, according to the DSM-5, “the likelihood of recurrent mood episodes after a single manic episode is more than 90%.” Ex. 4 at 8.

he loyally adhered to the plan and followed all treatment recommendations. *Id.* at 20, 35-36, 38, 47.

The Individual explained that he is under the care of a personal psychiatrist and maintains regular psychiatric appointments, meeting with his psychiatrist approximately every four months.<sup>4</sup> *Id.* at 42. The Individual stated that he can and does utilize his psychiatrist in between his regularly visits, should he notice a symptom that does not seem typical. *Id.* at 22. The Individual explained that he reached out to his psychiatrist for help during the summer of 2020, as he was experiencing multiple life changes and began to feel mild depression, accompanied by a lack of motivation. *Id.* at 25, 42. His psychiatrist immediately increased the dosage on his medication and recommended that he seek therapy. *Id.* at 24, 33. The Individual noted that he has maintained the increased dosage of medication and has not experienced any side effects. *Id.* at 24, 43. He additionally sought the help of a therapist on a weekly basis for approximately six months, which he found to be beneficial. *Id.* at 24-25. The Individual indicated that he and his therapist made the mutual decision to end the therapy sessions as they had reached the goals they sought to achieve, namely developing breathing techniques and mental self-awareness. *Id.* at 43. However, the Individual added that he is open to future therapy sessions should he need them. *Id.*

In addition to his treatment plan and the techniques he developed in therapy, the Individual also testified regarding his support system. He explained that his family is a large part of his support system, and he maintains close communication with them. *Id.* at 20-21, 26. He elaborated, stating that he shares with them the ways in which he may be struggling, seeks advice when needed, and relies on them to point out any changes or concerns they may have regarding his behavior or demeanor. *Id.* at 26-27. However, the Individual readily acknowledged that although family is important to him, it is also one of his greater stressors. *Id.* at 20. He noted that he found it challenging to live at home due to various family circumstances, and he worked to become financially independent so that he could move out on his own. *Id.* at 21. The Individual found the move to be a “big transition,” but he described living on his own as a “holistic change” that allows him to exercise flexibility to provide for his needs. *Id.* at 47.

Finally, the Individual explained that he has worked with his psychiatrist to understand that Bipolar I Disorder is a lifelong condition. *Id.* at 36. He noted that he feels his treatment plan is “very effective” and realizes that he must “stick with” it to stay healthy. *Id.* at 36-37. He described himself as a “regimented person,” which aids him in ensuring that his medication is a part of his daily routine, and he also explained that he has worked to develop self-awareness to ensure that his “mental health condition [does not] define” him. *Id.* at 28, 38. The Individual elaborated, stating that he is confident in his ability to persevere through “massive life disruptions” as he had already managed the Bipolar I Disorder through the devastating loss of a family member, a global pandemic, graduating college, moving out on his own, and starting a new career. *Id.* at 23, 39.

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<sup>4</sup> Exhibit A is a letter from the Individual’s psychiatrist. His psychiatrist reported that he has been treating the Individual for Bipolar I Disorder since early February 2019. Ex. A. He noted that the Individual has had “an excellent clinical response” to “standard reasonable pharmacotherapeutic management” and adheres to his treatment regimen. *Id.* The Individual’s Psychiatrist stated that, although he cannot definitely state that the Individual will not experience another manic episode, the Individual has not had an episode in over two years and has “maintained excellent stability” while undergoing treatment. *Id.*

The Psychiatrist testified after observing the hearing and listening to the testimony of the witnesses. The Psychiatrist originally concluded, in February 2020, that the Individual was in full remission and stable. Ex. 4. During his testimony, the Psychiatrist noted several factors associated with a Bipolar I Disorder diagnosis that could raise concerns regarding the Individual's trustworthiness, reliability, or judgment. Tr. at 59-60. These factors included the Individual's prior involuntary hospitalizations, family history, vulnerability to family conflict, necessity for medication management, potential for future stressors, and the cyclical nature of the Bipolar I Disorder. *Id.* at 59-62. The Psychiatrist noted that despite the 90% chance that the Individual would relapse within two years of his last episode, the Individual had not relapsed even while experiencing depression related to life stressors. *Id.* at 60. The Psychiatrist opined that this success indicated that the Individual was maintaining vigilance about his condition. *Id.*; *see id.* at 64. Along with this vigilance, the Psychiatrist observed multiple factors that mitigate the list of potential concerns, including that the Individual: (1) has loyally maintained his medication regimen; (2) has a strong alliance with his treating providers, who believe he is stable with his treatment; (3) values regularity and regimen; (4) understands the importance of engaging help and advice from his support system; (5) has not experienced a manic episode since 2017; (6) can articulate how he manages his condition; (7) is open and candid about stressors in his life, and (8) advocates for his treatment. *Id.* at 62-67. Ultimately, the Psychiatrist noted that the Individual is "doing the things that he needs to do to be stable and be productive" and has had ongoing and consistent compliance with his treatment plan. *Id.* at 70, 72.

## 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 has sufficiently mitigated the security concerns noted by the LSO under Guideline I of the Adjudicative Guidelines. Accordingly, I find that granting 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). Therefore, I have determined that the Individual's security clearance should be granted. The specific findings that I make in support of this decision are discussed below.

Certain personality conditions can impair judgment, reliability, or trustworthiness. Guideline I at ¶ 27. An opinion by a duly qualified mental health professional that an individual has a condition that may impair judgment, stability, or trustworthiness can serve as a disqualifying condition for a security clearance. *Id.* at ¶ 28(b). An Individual may be able to mitigate the security concerns if the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan. *Id.* at ¶ 29(a). Additionally, a recent opinion by a duly qualified mental health professional that an individual's previous condition is under control and has a low probability of recurrence or exacerbation may mitigate a security concern raised pursuant to Guideline I. *Id.* at ¶ 29 (c). Furthermore, if the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional, the individual may be able to mitigate the security concerns. *Id.* at ¶ 29(b).

Here, the Psychiatrist diagnosed the Individual with Bipolar I Disorder in full remission and concluded that the Individual was currently stable with treatment, with a favorable prognosis for continued stability. Ex. 4 at 8-9. Additionally, during the hearing, the Psychiatrist detailed an extensive list of factors that provided mitigation for various concerns raised by the Bipolar I Disorder diagnosis and concluded that the Individual is demonstrating consistent compliance with his treatment plan. *Id.* at ¶ 29(a) (c). Furthermore, the Individual seeks therapy, as needed, and consistently attends appointments with his personal psychiatrist, who believes that the Individual's condition is stable and affirms that the Individual is adherent to his treatment protocol. *Id.* at ¶ 29(b).

It is clear, based upon the evidence in the record and the testimony presented at the hearing, that the Individual has taken substantial steps to overcome the concerns regarding his Bipolar I Disorder. As such, I find that the Individual has adequately established that granting his security clearance will not endanger the common defense and security, and that doing so is clearly consistent with the national interest. Thus, I conclude that the Individual has sufficiently resolved the security concerns set forth in the Notification Letter with respect to Guideline I.

## **VI. Conclusion**

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 have found that the Individual has brought forth sufficient evidence to resolve the security concerns associated with Guideline I. Accordingly, I find that the Individual's access authorization should be granted. The parties may seek review of this Decision by an Appeal Panel under the regulations set forth at 10 C.F.R. § 710.28.

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals