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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 15, 2021	)	Case No.: PSH-21-0024
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Issued: May 27, 2021

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**Administrative Judge Decision**

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Kimberly Jenkins-Chapman, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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, "Procedures for Determining Eligibility for Access to Classified Matter and 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 security clearance should not be granted.

**I. BACKGROUND**

A DOE contractor employs the Individual in a position that requires him to hold a security clearance. The Individual completed a Questionnaire for National Security Positions (QNSP) on September 26, 2016. Exhibit (Ex.) 8 at 34. The Individual disclosed on the QNSP that he voluntarily sought treatment for alcohol use in 2013; however, he failed to disclose his participation in additional alcohol treatment in 2014. Ex. 8 at 29–30; Ex. 9 at 77–78. Furthermore, the Individual certified on his QNSP that in the previous seven years he had never illegally used drugs or controlled substances. Ex. 8 at 28. During an August 2018 Enhanced Substance Interview (ESI), he again denied the use of illegal drugs. Ex. 9 at 56. However, during an April 2019 DOE psychological evaluation he admitted to using marijuana daily in 2011, using heroin daily in 2013, and admitted to previous methamphetamine use at age 18. Ex. 6 at 4, 6. Also, information obtained by the local security office (LSO) during the investigation indicated that the Individual used methamphetamine in 2013. Ex. 3 at 1.

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<sup>1</sup> The regulations define access authorization 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). This Decision will refer to such authorization as access authorization or security clearance.

The Individual also certified on the QNSP that he never voluntarily sought counseling or treatment for use of drugs or a controlled substance. Ex. 8 at 28. However, the (LSO) obtained treatment information reflecting that the Individual had received inpatient treatment for heroin use in 2013 and treatment for polysubstance dependency in 2014. Ex. 3 at 1; Ex. 9 at 77.

In April 2019, a DOE-contracted psychologist (DOE Psychologist) conducted a clinical interview (CI) of the Individual. Ex. 6. Following the CI, the DOE Psychologist issued a psychological report (Report) in which she opined that the Individual has been heavily consuming alcohol and his alcohol consumption would impair his judgment, reliability, and trustworthiness. *Id.* at 8.

The LSO informed the Individual, in a letter dated April 16, 2020 (Notification Letter), that it possessed reliable information that created substantial doubt regarding the Individual's eligibility to hold a security clearance.<sup>2</sup> In an attachment to the letter (Summary of Security Concerns), the LSO explained that the derogatory information raised security concerns under Guideline E and Guideline G of the Adjudicative Guidelines. Ex. 1.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. The LSO submitted nine numbered exhibits (Ex. 1–9) into the record, and presented the testimony of the DOE psychologist at the hearing. The Individual submitted eight exhibits (Ex. A through H) into the record, and presented the testimony of four witnesses, including his own testimony.

## **II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS**

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning his eligibility for a security clearance. The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as a basis for denying the Individual a security clearance. Ex. 1 at 1. "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." Adjudicative Guidelines at ¶ 15. "Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes." *Id.* In citing Guideline E, the LSO relied upon the following information: in September 2016, the Individual submitted a QNSP certifying that he had not used illegal drugs or controlled substances in the past seven years, and he also denied during an August 2018 ESI having used illegal drugs during; however, treatment records obtained by the LSO and the DOE Psychologist's Report reflected that the Individual admitted that he used marijuana in 2011 and 2013, he used methamphetamine in 2013, and he used heroin daily in 2013. Ex. 1 at 2. The LSO further cited that the Individual certified on the QNSP that he never voluntarily sought counseling or treatment as a result of his use of a drug or controlled substance; however, he received inpatient treatment from May 2014 to June 2014 for Polysubstance Abuse Dependency, and from January 2014 to March 2014 for Heroin Abuse. Ex. 1 at 1. Additionally, the LSO relied upon the Individual's omission on the QNSP regarding his additional alcohol treatment from June 29, 2014

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<sup>2</sup> The transcript erroneously states that the date was March 11, 2021. Tr. at 5.

to July 12, 2014, and his failure to disclose on the QNSP that he was readmitted into the same inpatient treatment program for alcohol and drug use from August 2014 to September 2014. *Id.* The above information justifies the LSO's invocation of Guideline E.

The LSO also cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as a basis for denying the Individual a security clearance. Ex. 1 at 2. 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. Guideline G at ¶ 21. In citing Guideline G, the LSO relied upon the DOE Psychologist's conclusion that the Individual has been heavily consuming alcohol without evidence of rehabilitation or reformation, and that his alcohol consumption would impair his judgment, reliability, and trustworthiness. Ex. 1 at 2. The LSO also cited to the Individual's admissions during an August 2018 ESI that he drank a pint of vodka daily from late 2011 to 2012; that he would consume alcohol until he passed out; and that in April 2013, he was consuming alcohol heavily, drinking a fifth of vodka daily. *Id.* at 3.

### **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 entire process is a conscientious scrutiny of a number of variables known as the "whole person concept." Adjudicative Guidelines ¶ 2(a). The protection of the national security is the paramount consideration. 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 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.

### **IV. FINDINGS OF FACT**

The Individual failed to disclose on his September 2016 QNSP that he participated in additional alcohol treatment in 2014, and he did not disclose that he used heroin, marijuana, and methamphetamine illegally within the previous seven years. Ex. 8 at 28–30, 34. In addition, he certified on the QNSP that he never voluntarily sought counseling or treatment as a result of his use of a drug or controlled substance. Ex. 8 at 28. During an August 2018 Enhanced Substance Interview, he also denied using illegal drugs. Ex. 9 at 56.

Information in the record indicates that the LSO obtained treatment records revealing that the Individual had previously participated in a drug treatment program. Ex. 3 at 1. Additionally, an OPM investigator interviewed the clinical director (Director) of a different inpatient program in September 2018, and the Director verified the Individual's participation in alcohol and substance use treatment from January 2014 through March 2014, and confirmed his readmission into the same program in June 2014 for additional treatment. Ex. Ex. 9 at 77–78. The Director confirmed that the Individual completed treatment on July 13, 2014, and followed all prescribed treatments during that time. *Id.* at 78.

The DOE Psychologist conducted a clinical interview (CI) of the Individual on April 2, 2019. Ex. 6 at 3. During the CI, the Individual admitted that his alcohol consumption increased in 2011 to approximately one pint of vodka daily, and he started using marijuana daily in 2011. *Id.* at 4. He also admitted to using three to four grams of heroin daily during 2013. *Id.* Additionally, he disclosed past methamphetamine use. *Id.* at 6. He told the DOE Psychologist that he admitted himself into an inpatient treatment program (Inpatient Program) in May 2014, left against medical advice on June 4, 2014, but returned later that month, and completed the program on July 13, 2014. *Id.* at 4–5. Subsequently, he participated in aftercare weekly for three months, and maintained abstinence for three years until August 2017 when he resumed drinking alcohol. *Id.* at 5.

The DOE Psychologist ordered a Phosphatidylethanol (PEth) test for the Individual as part of the CI. *Id.* at 6. The Individual's PEth test was positive at a level of 609 ng/mL. *Id.* The physician who interpreted the PEth results indicated that a positive PEth test at 609 ng/mL is consistent with regular, heavy consumption of alcohol on an ongoing and chronic basis, specifically at five or more alcoholic drinks per day. *Id.* at 6–7.

On April 13, 2019, the DOE Psychologist issued her report (Report) in which she concluded that the Individual had been heavily and likely frequently consuming alcohol, and this consumption would impair his judgment, reliability, and trustworthiness. *Id.* at 8. The DOE Psychologist recommended that the Individual demonstrate rehabilitation or reformation by abstaining from alcohol for a minimum of nine months, have PEth tests every two months, complete an IOP, and attend an aftercare program. *Id.*

The Individual submitted a written statement responding to the allegations in the Summary of Security Concerns (SSC). Ex. A. He asserted that his failure to disclose his previous heroin use was mainly due to his concerns of perceived negative stigma and his feelings of shame regarding his past drug use. Ex. A at 2–3, 5 He also believed that if the DOE learned that he had injected heroin, “they will never give me a clearance.” Ex. A at 2–3, 5. He included character references from his former supervisor, current supervisor, and three colleagues. *Id.* at 7–9; Ex. F; Ex. H, Ex. G.<sup>3</sup> All of his character references attested to the Individual's dependability and reliability in his work performance. Ex. A at 7–9; Ex. F, Ex. H. Additionally, the Individual submitted a letter from his IOP counselor dated July 25, 2020, which verified completion of his IOP program. Ex. B. He also submitted three negative PEth tests from August 2019, September 2019, and July 2020. Exs. C, D, and E.

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<sup>3</sup> Exhibit G is a duplicate of the same letter submitted from the Individual's colleague in Exhibit A at 9.

## V. HEARING TESTIMONY

The Individual's parents testified on his behalf. They stated that they see the Individual daily, and that he has been living with them for the past five years. Tr. at 12, 33. They testified that several years ago, the Individual voluntarily disclosed to them that he needed help with his alcohol problem, and requested their assistance in helping him find a treatment program. *Id.* at 13–15, 23–24, 35–36. As a result, they assisted him in enrolling in an inpatient treatment program (Inpatient Program). *Id.* at 15–16, 24, 36. The Individual's mother testified that the Individual enrolled in the Inpatient Program in approximately 2013. *Id.* at 14. She recalled that while in treatment, there was a point in time where he left the program, but ultimately returned and completed it. *Id.* at 16–17. The Individual's mother also testified that although she never saw him use illegal drugs, the Individual told her that he had previously used heroin. *Id.* at 17. She asserted that per her observations, the Individual's primary problem has been alcohol. *Id.* at 18.

The Individual's mother stated that she has not seen the Individual consume alcohol since he completed the Inpatient Program in approximately 2014, nor has she had any indications that he consumed alcohol since that time. *Id.* at 18–20. She testified that she and the Individual's father have chosen not to keep alcohol in the house in order to support the Individual in his sobriety. *Id.* at 18. However, she thinks that the Individual probably has “slipped up once in a while and had some alcohol.” She noted that he has told her that he has had cravings for alcohol and indicated to her that it has been difficult dealing with those cravings. *Id.* at 28–29. She stated that the Individual has told her that his future intentions are to not consume alcohol. *Id.* at 20–21. She also stated that since the Individual completed the Inpatient Program, she has observed several positive changes. He is continuing his attendance at AA meetings, he has increased his responsibility and stability, he takes good care of his son, he is more organized, and he is taking better care of his physical health. *Id.* at 21–22, 27–28.

The Individual's father testified that he has never observed the Individual consume alcohol, and asserted that he and the Individual's mother do not have alcohol in the house. *Id.* at 38–39. He stated he believes the Individual's future plan with alcohol is total abstinence. *Id.* at 39. The Individual's father stated that as far as he knows, the Individual has been abstinent since he completed the Inpatient Program, although the Individual has mentioned to him that he does have cravings for alcohol. *Id.* at 45.

The Individual's parents both testified that they find the Individual to be trustworthy and reliable. *Id.* at 24–25, 41. They asserted that the Individual has never done anything dishonest as an adult, that he has not hidden anything from them, and that they trust him to the point that he has access to their finances. *Id.* at 24–25, 41. They asserted that he is reliable in that he follows through on all tasks that they ask him to do, that he is reliable in his responsibilities with his son, and that he has maintained his job successfully for several years. *Id.* at 25, 41–42.

The Individual did not dispute the allegations contained in the Summary of Security Concerns (SSC). He indicated that heroin was the main drug he used, which was in approximately 2011 until he briefly entered a treatment program in 2013. *Id.* at 49; Ex. 3 at 1. He also admitted that he previously used marijuana, and he had briefly tried methamphetamine prior to the time period that he used heroin. *Id.* at 49–50. He asserted that he has not used heroin, marijuana, or methamphetamine since he completed the Inpatient Program in 2014. *Id.* at 49–50. The Individual admitted that he intentionally did not disclose his previous heroin use and his previous

participation in drug treatment on his QNSP. *Id.* at 97. He explained that he was not honest because he had a lot of shame and guilt regarding his heroin use and its negative stigma. *Id.* at 66-67, 98; Ex. A at 2-3. He stated that at the time that he completed the QNSP, he was thinking, “[O]h God, they’re going to see that I’m a heroin addict and that’s it...[t]hey’re never going to hire a heroin addict.” *Id.* at 98; *see also* Ex. A at 2. He admitted to also being dishonest in his nondisclosure of his previous use of marijuana and other drugs. *Id.* at 67-68. He asserted that he was not sure why he did not disclose it, however, he stated that his thought process might have been, “If I’m going to lie about one, might as well just throw them all in there.” *Id.* The Individual admitted that he demonstrated “extremely poor judgment” in choosing not to disclose his past drug use, and indicated that he wished he had been more honest concerning this issue. *Id.* at 67. However, he also admitted that he did not disclose his heroin drug use until the DOE Psychologist informed him that there were records that indicated he previously used heroin. *Id.* at 65. Further, he admitted that if the DOE Psychologist had not told him about this information contained in the record, he would “probably not” have disclosed his past heroin use. *Id.* at 65-66.

The Individual asserted that he did not intentionally fail to disclose his additional alcohol and drug treatment at the Inpatient Program in 2014. *Id.* at 58-59. He noted that the SSC contains inconsistent dates regarding his alleged nondisclosure of additional treatment in the Inpatient Program. *Id.* at 52; Ex. 1 at 1. The Individual clarified that he initially attended a different treatment program, but because it was a fairly involved program, he could not complete it. *Id.* at 49, 53. Subsequently, in January 2014, he admitted himself into the Inpatient Program where he was in treatment through July 2014. *Id.* at 53; *see* Ex. 6 at 4-5. During the time he was at the Inpatient Program, there was a period of approximately one month when he left treatment, but then he returned and was readmitted into the same Inpatient Program later in 2014. *Id.* He explained that since he stated on the QNSP that he had attended treatment at both the Initial Program and the Inpatient Program, he believed that he was not dishonest, nor had he attempted to hide his treatment history. *Id.* at 59. However, he admitted that he had represented on his QNSP that he participated in those programs for treatment of alcohol use only, even though he also participated in those programs to treat drug use. *Id.* at 59-61. He admitted that this omission was due to the stigma and shame he felt regarding heroin use. *Id.* at 60.

The Individual also testified that after he met with the DOE Psychologist, he subsequently attended an Intensive Outpatient Program (IOP) where he completed 20 hours of treatment that he began in September 2019. *Id.* at 69,87; Ex. B. He stated that the IOP program was very beneficial to him because it helped him address the difficulties he has regarding his feelings of shame and negative stigma regarding his past heroin use. *Id.* at 69-70. He asserted that he learned helpful lessons from his IOP counselor. *Id.* at 69-70, 84, 88. His counselor worked with him to reframe his feelings of shame around his heroin use, and explained to him that he should be proud that he was able to stop using heroin. *Id.* at 88. Moreover, the Individual asserted that the reason he returned to participating in Alcoholics Anonymous (AA) was at the suggestion of his counselor, who discussed with him the benefits of AA and its importance in assisting him with maintaining his sobriety. *Id.* at 83-84.

The Individual asserted that he completely abstained from alcohol from March 2019 to June 2020, and regularly attended AA meetings during that time period. *Id.* at 77. His testimony was supported by negative PEth test results from August 9, 2019; September 20, 2019; and July 6, 2020. *Id.* at 81; Ex. C; Ex. D; Ex. E. However, the Individual admitted that in approximately June or July 2020, he relapsed by returning to alcohol consumption. *Id.* at 78-79, 82. He asserted that the impetus for

his relapse occurred during COVID-19, when he experienced significant stress due to being unemployed, having financial difficulties, lacking social support, and being unable to attend live AA meetings due to COVID-19. *Id.* at 77–78, 80. He stated that he had tried to attend online AA meetings, but indicated that the online AA meetings did not provide him with the same benefits he gained from live AA meetings. *Id.* at 78, 83.

The Individual also disclosed that from the date that he gave up his sobriety until his employment resumed in July 2021, he engaged in heavy alcohol consumption. *Id.* at 79. He stated that he was able to drink alcohol undetected by his parents by bringing the alcohol upstairs to his room, which was in a different part of the house. *Id.* at 72–73. He also admitted that he did not inform his counselor that he had started consuming alcohol again when he met with his counselor to obtain a letter of reference from him regarding his sobriety treatment. *Id.* at 90–91; Ex. B. The Individual further admitted at the hearing that he last used alcohol 46 days prior thereto. *Id.* at 77. At the hearing, he submitted the results of a PEth test on April 23, 2021, which was positive at a level of 178 ng/mL. *Id.* at 102-03; Ex. I.<sup>4</sup>

The Individual admitted that he is an alcoholic, and acknowledged that he cannot safely consume alcohol. Tr. at 114. He stated that he has resumed attending live AA meetings, and some NA meetings, and his first meeting was just over one month prior to the hearing. *Id.* at 85. 91 He asserted that he currently tries to work the first three steps of AA daily, he reads the “Big Book,”<sup>5</sup> and he is also seeking an AA sponsor. *Id.* at 85–86. However, he admitted that currently, he is not seeking out additional, formal treatment or counseling because he believes that AA participation is sufficient to keep him accountable concerning his sobriety. *Id.* at 93–94.

The DOE Psychologist testified after observing the hearing and listening to the testimony of the witnesses, including the Individual. She opined that based on the additional evidence presented at the hearing, the Individual meets the criteria for a diagnosis of alcohol use disorder, moderate. *Id.* at 123. She did commend the Individual for being forthcoming about his alcohol use at the hearing, and she credited him for pursuing and attending AA. *Id.* at 126, 128–29. She also stated that the Individual is “clearly committed and wants to...remain abstinent” and was “definitely on the right track” within the prior 46 days. *Id.* at 128–29. However, the DOE Psychologist opined that while it is a positive step that the Individual is participating in AA, it is “not sufficient given the degree of his alcohol problems.” *Id.* at 125. She testified that her current recommendations for the Individual are “no less than 12 months of documented abstinence,... [and] in addition to the outpatient program, [the Individual] would need to demonstrate ...participation in ...an aftercare program...[t]hat’s typically connected with an intensive outpatient program.” *Id.* at 124. The DOE Psychologist explained the importance for the Individual to attend formalized treatment because it teaches adaptive coping and tools to identify triggers, provides a social component with accountability, and notably, is facilitated by a professional. *Id.* at 125. She stated that she is also concerned about the Individual’s secrecy of consuming alcohol in his room and not disclosing it to his parents who have been very supportive and understanding, and she concluded that the Individual’s support system is not adequate for his recovery. *Id.* at 127–28. She concluded, “I am

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<sup>4</sup> The PEth test documentation stated, “PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption. However, the Center for Substance Abuse Treatment ...advises caution in interpretation ...of biomarkers alone to assess alcohol use. Results should be interpreted in the context of all available clinical and behavioral information.” Ex. I.

<sup>5</sup> The “Big Book” is a basic text of AA, and is considered integral to the AA program.

convinced he needs more formal treatment in addition to his continued participation in AA. *Id.* at 127. Finally, the DOE Psychologist opined that there is currently not adequate evidence of rehabilitation or reformation. *Id.* at 129.

## VI. ANALYSIS

### A. Guideline E

The Individual's omissions regarding his past drug use and his previous participation in a substance abuse treatment program raise security concerns under Guideline E. Adjudicative Guidelines at ¶ 16(a), (b). An individual may mitigate security concerns under Guideline E, in relevant part, if:

- (a) the individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (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;
- (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

*Id.* at ¶ 17(a), (c), (d).<sup>6</sup>

The Individual's lack of candor is centered on his failure to provide truthful and candid answers on his September 2016 QNSP and in his August 2018 ESI concerning his prior drug use and history of treatment for alcohol and drug use. The Individual had the opportunity to disclose this previous omission during his August 2018 ESI, however, he did not do so. Instead, he waited to disclose his drug history until his April 2019 CI with the DOE Psychologist, and admitted that he probably would not have disclosed his prior heroin use if the DOE Psychologist had not confronted him with information from his drug treatment records. I therefore find that the Individual's disclosure was not sufficiently prompt to provide mitigation under Guideline E at ¶ 17(a).

Regarding ¶ 17(c), the Individual signed the QNSP, including the acknowledgement that providing knowing and false information can be punished by a fine or imprisonment, yet he intentionally concealed his past drug use and drug treatment, stating he was concerned that he would not be hired if the DOE learned of his past heroin use. While he explained that his failure to disclose was based on the negative stigma and shame associated specifically with heroin use, he was also not candid about his previous marijuana use. These multiple, willful nondisclosures are not minor offenses. Moreover, while his behavior concerning his recent alcohol use is not a basis for concern under Guideline E, his testimony on the topic provided an opportunity to evaluate his candor. I

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<sup>6</sup> The additional mitigating factors for Guideline E at ¶ 17(b), (e)–(g) do not apply in the instant case. Paragraph 17(b) does not apply because the Individual is pro se, and therefore, was not advised by counsel regarding his omission. Paragraph 17(f) does not apply because the Individual did not make allegations pertaining to the source for the SSC allegations. Paragraph 17 (e) and (g) do not apply because there were no SSC allegations concerning vulnerability to exploitation, nor were there allegations involving association with persons involved in criminal activities.



note that the Individual was honest in testifying that he last consumed alcohol 46 days prior to the hearing. However, he admitted that when he asked his IOP counselor for a letter regarding his sobriety treatment, he had already relapsed into alcohol use but chose not to inform his IOP counselor of his relapse. Also, he admitted to secretly consuming alcohol in his room and not disclosing it to his parents, both after he completed his Inpatient Program and more recently within the past few months. His lack of candor is revealing because his parents demonstrated their care and unconditional support for his sobriety in their testimony, yet he has not been forthcoming with them regarding his alcohol use. Accordingly, I cannot find that the Individual's behavior is unlikely to recur, nor can I find that his behavior does not cast doubt on his trustworthiness or good judgment.

Concerning the mitigating factor at ¶ 17(d), the Individual completed an IOP program in 2019-2020. He also testified concerning his progress with his IOP counselor to address his feelings of shame and negative stigma regarding his past heroin use, and how to overcome this underlying cause for his lack of candor. However, the impact of his actions is undermined for the reasons discussed in the previous paragraph, including his recent lack of candor with his IOP counselor and his parents. I therefore find that the Individual has not met his burden to resolve the concerns under ¶ 17(d).

## **B. Guideline G**

The DOE Psychologist's opinion that the Individual's heavy alcohol consumption impairs his judgment, reliability, and trustworthiness raises security concerns under Guideline G of the Adjudicative Guidelines. Adjudicative Guidelines at ¶ 22(c). 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 not satisfied any of the mitigating conditions. He does not meet the first mitigation condition because of the recency of his relapse. The Individual last consumed alcohol 46 days prior to the hearing. Further, his most recent PEth test in April 2021 was positive at a level that is indicative of moderate to heavy alcohol consumption.

Regarding the second and fourth mitigating conditions at ¶ 23(b) and 23(d), I credit the Individual for completing an IOP program as was initially recommended by the DOE Psychologist. In addition, the Individual acknowledged that he is an alcoholic, has participated in AA meetings, and successfully maintained complete abstinence from March 2019 to June 2020. However, due to the Individual's relapse, his renewed sobriety date is 46 days prior to the hearing. Moreover, while he is committed to attending AA meetings and is working the steps, he indicated that he does not believe that he needs formalized treatment. Notably, however, the DOE Psychologist opined, based on updated evidence, that the Individual meets the criteria for Alcohol Use Disorder, Moderate, and the severity of his alcohol use warrants additional treatment recommendations. Since the Individual has not yet achieved 12 months of abstinence following his most recent relapse, nor has he entered an aftercare program, he has not complied with the DOE Psychologist's updated treatment recommendations. Accordingly, the Individual has not satisfied the criteria for mitigation under ¶ 23(b) and 23(d),

Concerning the third mitigating factor at ¶ 23(c), the Individual previously participated in an Inpatient Program which he completed in 2014. After maintaining three years of abstinence, he resumed alcohol consumption, and his PEth test results in April 2019, as reflected in the DOE Psychologist's report, were positive at a level consistent with heavy alcohol consumption. As recommended by the DOE Psychologist, he attended an IOP in September 2019 which he completed, however, he subsequently relapsed in July 2020. Since the Individual has demonstrated a history of treatment and relapse, and is in need of additional, formalized treatment, he has not satisfied the requirements to resolve security concerns under ¶ 23(c).

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guidelines E and G of the Adjudicative Guidelines. After considering all of 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 find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual's access authorization should not be granted. The parties may seek review of this Decision by an Appeal Panel, under the regulation set forth at 10 C.F.R. § 710.28.

Kimberly Jenkins-Chapman  
Administrative Judge  
Office of Hearings and Appeals