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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: December 9, 2021) Case No.: PSH-22-0027
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Issued: April 21, 2022

Administrative Judge Decision

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXX XXXXX (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, entitled “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”¹ 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 restored.

I. Background

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In late November 2020, the Individual self-reported that he had been arrested for Driving Under the Influence (DUI) and having an open container in his vehicle. Ex. 6. In August 2021, the Individual was evaluated by a DOE consultant psychologist (Psychologist). Ex. 10. The Psychologist diagnosed him with Alcohol Use Disorder, Severe, in early remission, without adequate evidence of rehabilitation or reformation. *Id.*

Due to unresolved security concerns related to the Individual’s alcohol use, the Local Security Office (LSO) informed the Individual in a Notification Letter that his security clearance had been suspended and that it possessed reliable information that created substantial doubt regarding the Individual’s eligibility to hold a security clearance. In the Summary of Security Concerns attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (alcohol consumption) of the Adjudicative Guidelines. Ex. 1.

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.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. 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 14 numbered exhibits (Ex. 1-14) into the record and presented the testimony of the Psychologist. The Individual introduced 22 lettered exhibits (Ex. A-V) into the record and presented his own testimony as well as that of three other witnesses. 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 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).

An 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). An 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 the Summary of Security Concerns, which set forth the derogatory information that raised concerns about the Individual’s eligibility for access authorization. The Summary of Security Concerns specifically cited Guideline G of the Adjudicative Guidelines. Ex. 1. Guideline G relates to security risks arising from excessive alcohol consumption. “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.

In citing Guideline G, the LSO relied upon the Psychologist’s August 2021 determination that the Individual met the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), criteria for a diagnosis of Alcohol Use Disorder,² Severe, in early remission, without adequate evidence of rehabilitation or reformation. Ex. 1. It additionally cited four alcohol-related incidents

² The Summary of Security Concerns lists the diagnosis as Alcohol Abuse Disorder; however, this appears to be an error as the actual diagnosis is Alcohol Use Disorder. Ex 1; Ex. 10.

involving the Individual: a November 2020 arrest for DUI and Open Container, a November 2019 positive result on a random alcohol screening test conducted by his employer,³ a May 1990 arrest for DUI, and a June 1988 citation for Possession of Alcohol Underage. *Id.*

IV. Findings of Fact

As stated above, due to unresolved security concerns arising from a self-reported November 2020 DUI citation, the Individual underwent an evaluation with the Psychologist in August 2021. Ex. 10. The Psychologist's report (Report) noted that prior to becoming employed with a DOE contractor, the Individual served as a first responder and had "experienced several tragedies firsthand in the line of duty, as well as significant sleep deprivation at times." *Id.* at 3. The Individual admitted to the Psychologist that he had used alcohol in the past to help him sleep and that he was using alcohol "to help cope with the stress of his job." *Id.* The Report noted that the Individual believed that "his drinking was problematic for at least the past eight years because he would be intoxicated in front of his children" and would consume alcohol "for hours...without thinking about how much he was consuming." *Id.*

According to the Report, following the November 2020 DUI, the Individual's employer required him to meet with a site psychologist who recommended that the Individual complete an evaluation with a Substance Abuse Professional (SAP). *Id.* at 4. In December 2020, the SAP evaluated the Individual and diagnosed him with Alcohol Use disorder, Moderate. *Id.* at 5. As such, the SAP recommended that the Individual undergo an assessment for admission into an intensive outpatient program (IOP). *Id.* Approximately one week after the SAP evaluation, the Individual underwent the IOP assessment and was diagnosed with Alcohol Use Disorder, Severe. *Id.* As a result, it was recommended that he complete an inpatient program. *Id.* The Individual enrolled in the inpatient treatment program in late December 2020, and despite contracting the COVID-19 virus, he "participated meaningfully." *Id.* After successfully completing the program in March 2021, the Individual participated in the IOP aftercare program and began attending one to two Alcoholics Anonymous (AA) meetings per week. *Id.* Additionally, he maintained bi-weekly contact with his mentor from the treatment program and "regularly talks with three men he met" in the program with whom "he related well" and who serve as a support system for him. *Id.*

During the psychological evaluation, the Individual stated that, since his November 2020 arrest for DUI, he had not consumed "a drop" of alcohol and intended to "remain abstinent for the rest of his life." *Id.* at 4, 6. As part of the evaluation, the Psychologist ordered a Phosphatidylethanol (PEth) test, which was negative, indicating that the Individual had "not been drinking on a regular, heavy basis within a few weeks of the test and ha[d] not had binge drinking episodes or moderate drinking within about one week of the test" *Id.* at 4.

Ultimately, the Psychologist diagnosed the Individual with Alcohol Use Disorder, Severe, in early remission, without adequate evidence of rehabilitation or reformation. *Id.* at 7. To demonstrate adequate evidence of rehabilitation or reformation, the Psychologist recommended that the Individual remain abstinent from alcohol for a period of 12 months and undergo two PEth tests

³ The Summary of Security concerns reported that the Individual tested positive for at .07, "which exceeds the admin control limit of .02." An examination of the Alcohol Testing Form revealed, however, that the actual result was .007 g/210L. Ex. A. Given that the Individual did not exceed the control limit, I will not address this as an alcohol related security concern within this decision.

over the 12-month period. *Id.* She additionally recommended that the Individual continue to participate in AA meetings at least once a week. *Id.*

At the hearing, the Individual called, as a witness, a member of his aftercare team (Aftercare Facilitator). Tr. at 13. The Aftercare Facilitator testified that, even prior to completing the inpatient treatment program, the Individual called the Aftercare Facilitator to discuss the aftercare program. *Id.* at 17. He stated that the Individual is fulfilling all the aftercare recommendations⁴ and is regularly utilizing the program. *Id.* at 18. The Aftercare Facilitator noted that he is “happy with [the Individual’s] participation” as the Individual speaks “freely” and “openly.” *Id.* He stated that he believes the Individual is “doing what he needs to be doing” to remain abstinent from alcohol, and he has no doubt that the Individual is successfully remaining abstinent. *Id.* at 22-23.

The Individual also called a peer (Peer) from his inpatient recovery program to testify on his behalf. *Id.* at 33. The Peer testified that he and the Individual bonded while in the inpatient treatment program and have stayed in contact since the Individual completed the program in March 2021. *Id.* at 33-34. He testified that after speaking with the Individual, he feels “super inspired” due to the Individual’s resilience, support of his family, and ability to maintain his sobriety through adversity. *See id.* at 36. The Peer felt that he and the Individual have had a positive impact on each other’s recovery and their “connection” allows them “to help each other out spiritually.” *Id.* at 37.

The Individual’s next witness was a peer leader (Peer Leader) from the REBOOT Recovery, First Responder Recovery (REBOOT) program. *Id.* at 47, 51. The Peer Leader testified that REBOOT is a faith-based, 12-week course,⁵ for first responders and their families. *Id.* at 48. The program allows first responders to connect with peers who have also experienced trauma. *See id.* at 47-48. The Peer Leader stated that “something about that connection and being understood helps people realize that they’re not broken...we teach them to address the roots of the issue.” *Id.* She added that “most of the time when folks come into these courses, the don’t even realize that the symptoms that they are having are related to years of job service and stress...once they see that there’s the root of the problem...it gives [them] a place to start [the] healing journey.” *Id.* at 48.

The Peer Leader testified that she first met the Individual in September 2019 when he attended and successfully completed the fall 2019 course. *Id.* at 52, 54. The COVID-19 pandemic hit soon after, and the course was forced to meet in a virtual setting. *Id.* at 52. The Peer Leader stated that the Individual returned to the in-person setting in September 2021, and she “could tell that there had been a change.” *Id.* She clarified that she “could just tell by the way [the Individual] was participating and the way he would speak and engage the group that he realized he had work to do, and he was willing to do whatever it took to take care of that.” *Id.*

Along with completing the September 2019 and 2021 REBOOT classes, the Individual successfully completed a Leadership Training Academy with REBOOT First Responders in 2022. *Id.* at 54; Ex. E, Ex. N. The Peer Leader explained that the Leadership Training Academy teaches attendees how to lead and facilitate REBOOT groups, and how to help someone in crisis, and it provides resources

⁴ The Aftercare Facilitator testified that the aftercare program recommends 12-18 months of attendance at aftercare meetings as well as participation in “Twelve Step” meetings, such as AA. Tr. at 25.

⁵ The Peer Leader noted that the group meets once per week for 12 weeks, and each meeting is approximately two-and-a-half hours. Tr. at 58.

from the headquarters group. Tr. at 54. The Peer Leader testified that the Individual is in the process of completing his third REBOOT class, and he now understands the root of his problem, knows how to address it, and knows he is responsible for his actions. *Id.* at 58-59, 66. Specifically, she stated that the program has “made [the Individual] realize that his actions with alcohol stemmed from his job stress and trauma,” and the Individual has stated that he intends to never consume alcohol again. *Id.* at 54, 64

The Individual testified on his own behalf. *Id.* at 73. The Individual sought to mitigate the Guideline G security concerns through evidence of rehabilitation and reformation. *Id.* at 105. He stated that in September 2019, he moved into a cabin and was living alone after his wife asked him to leave their home due to him becoming intoxicated one night. *Id.* at 77-78, 87. He stated that his wife asking him to leave was when he realized he needed to “fix some things.” *Id.* at 79. Although he had the desire to stop consuming alcohol, the Individual realized that he did not have the tools. *Id.* at 82. He explained that he started “soul searching” and found the REBOOT program in the fall of 2019. *Id.* at 79. However, in November 2020, he stated that he made a “very poor decision to operate a vehicle...when [he] should not have been driving,” resulting in the DWI. *Id.* at 76. He stated that the last time he was intoxicated was the night of his DWI, and the last time he consumed alcohol was December 23, 2020,⁶ before he left for his inpatient treatment program.⁷ *Id.* at 75-77.

The Individual testified that he entered inpatient treatment in late December 2020, and after completing that program, he completed an eight-week IOP with aftercare at the same facility. *Id.* at 82, 86; Ex. Q. Through REBOOT, the Individual stated that he found people who were like him as if they spoke a “native tongue.” *Id.* at 80. He noted that in a group of people who understood him, he could not “fake it.” *Id.* He stated that his experiences in the treatment programs and REBOOT have taught him to “slow down” and adapt to daily routines, something he felt incapable of doing in the fast-paced life of a first responder. *See* Tr. at 94. The Individual shared that, in July 2021, his wife was diagnosed with cancer. *Id.* at 94-95. He stated that, although he was not living with his family at the time she was diagnosed, his treatment and the REBOOT program helped him to reconcile with his family and support his wife through her treatment.⁸ *Id.* at 95. The Individual added that he believes his recovery is “a work in progress” and will be ongoing “for the rest of [his] life.” *Id.* at 117.

The Psychologist testified, after observing the hearing and listening to the testimony presented, that she believed that the Individual had shown adequate evidence of rehabilitation or reformation from the diagnosis of Alcohol Use Disorder, Severe, in early remission. *Id.* at 130. She explained that the Individual had followed all the recommendations that she set forth in her Report, and he has been “self-motivated to...comprehensively address all of the potential vulnerabilities that he may have to trigger him to use alcohol” as a coping mechanism. *Id.* at 132. She noted that the Individual has participated fully in REBOOT such that he is now able to serve as a peer leader. *Id.* The

⁶ Although this appears to contradict his reported alcohol consumption to the Psychologist, given the Individual’s negative PEth test following the Psychologist’s evaluation as well as his continued abstinence for over one year, I do find this discrepancy to be significant.

⁷ The Individual submitted two negative PEth tests dated January 2022 and February 2022. Ex. R, Ex. S.

⁸ The Individual testified that he also participated in five or six therapy sessions with a trauma therapist and engaged in marital counseling. Tr. at 109-110. In a letter, the marriage counselor stated that the Individual’s wife indicated that after completing treatment and REBOOT, the Individual “is now a different person.” Ex. C.

Psychologist added that the Individual has continued his aftercare of his own accord as it is not required nor did she recommend it. *Id.*

The Psychologist testified that, although the Individual is not currently attending AA, and REBOOT is not a replacement for AA, he is using REBOOT, a community, peer support group, in lieu of substance use, as a means for coping with trauma. *Id.* at 134. She clarified that, in the Individual's particular case, because he had consistently acknowledged the problematic role of alcohol in his life, she was satisfied with his participation and engagement in this peer support group. *Id.* at 135. She opined that the Individual had a "excellent" prognosis and is now considered to be in full remission. *Id.* at 135, 137.

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 regarding Guideline G. 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 restored. The specific findings that I make in support of this Decision are discussed below.

Guideline G

Regarding Guideline G, a diagnosis of alcohol use disorder by a duly qualified medical or mental health professional, including a clinical psychologist, is a condition that could raise a security concern and may disqualify an individual from holding a security clearance. Adjudicative Guidelines at ¶ 22(d). An Individual's failure to follow treatment advice once he is diagnosed, or the consumption of alcohol which is not in accordance with a treatment recommendation, after a diagnosis of alcohol use disorder, may disqualify an individual from holding a clearance. *Id.* at ¶ 22(e), (f). Additionally, alcohol-related incidents away from work could raise a disqualifying security concern. *Id.* at ¶ 22(a). If an individual acknowledges the 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, the individual may be able to mitigate the security concern. *Id.* at ¶ 23(b).

In this case, the Psychologist diagnosed the Individual with Alcohol Use Disorder, Severe, in early remission. *See* Adjudicative Guidelines at ¶ 22(a), (d). Since his DUI arrest in November 2020, the Individual has successfully completed both an inpatient and outpatient treatment program as well as the accompanying aftercare. He has fully engaged in the REBOOT program and has completed the leadership course so that he is able to help others who find themselves coping with trauma in unhealthy ways. The Individual has remained abstinent for over a year, even throughout the hardship of his wife undergoing cancer treatment, and he has offered laboratory testing to support his claims of sobriety in the form of two PEth tests. *Id.* at ¶ 23(b). Furthermore, the Psychologist testified that the Individual has demonstrated adequate evidence of rehabilitation or reformation and is now in sustained remission from the alcohol use disorder. *See id.* at ¶ 22(d).

I find the Individual's commitment to his recovery to be genuine. He has undertaken a journey of recovery, learning to cope with trauma sustained while serving his community in a healthy manner. He is now using his experience to again serve others by helping them address their trauma and uncover healthy coping mechanisms. As a result of the Individual's progress through his treatment programs, participation in aftercare, and engagement in peer support, I find that the Individual has mitigated the Guideline G security concerns.

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 G. Accordingly, the Individual has demonstrated that restoring his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I have determined that the Individual's access authorization should be restored. 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