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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 1, 2021 ) Case No.: PSH-22-0015  
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Issued: June 6, 2022

**Administrative Judge Decision**

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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.”<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 restored.

**I. Background**

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In August 2020, the Individual self-reported that he was voluntarily admitting himself for hospitalization for “alcohol treatment.” Exhibit 6. Subsequently, the Individual completed a Letter of Interrogatory (LOI) in March 2021 and was evaluated by a DOE consultant psychologist (Psychologist) in April 2021. Ex. 7, 8. The Psychologist diagnosed the Individual with Alcohol Use Disorder, Moderate, without adequate evidence of rehabilitation or reformation. Ex. 8 at 10.

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.

<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. 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 10 numbered exhibits (Ex. 1-10) into the record and presented the testimony of the Psychologist. The Individual introduced 15 lettered exhibits (Ex. A-O) into the record and testified on his own behalf. 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 May 2021 determination<sup>2</sup> that the Individual met the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), criteria for a diagnosis of Alcohol Use Disorder, Moderate, without adequate evidence of rehabilitation or reformation. Ex. 1.

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<sup>2</sup> Although the Psychologist evaluated the Individual in April 2021, the Psychologist Report was not issued until May 2021. Ex. 8.

#### IV. Findings of Fact

As stated above, due to unresolved security concerns arising from the Individual's August 2020 self-report of his voluntary admittance for hospitalization for alcohol treatment, the Individual completed an LOI in March 2021. Ex. 7. In the LOI, the Individual stated that his alcohol consumption was causing problems within his marriage, and as such, he voluntarily entered an "early recovery" program for alcohol through his local hospital system. *Id.* at 1, 4. He indicated that he was diagnosed with an Alcohol Use Disorder. *Id.* at 2. The early recovery program concluded after 90 days, and the Individual subsequently entered a "relapse prevention program" through the same hospital system. *Id.* at 1. He participated in this program until early January 2021. *Id.* In early February 2021, the Individual began consuming alcohol again, and in early March 2021, he contacted the hospital system once more to reenroll in the relapse prevention program. *Id.* at 1, 3. The Individual remained active in the program as of the date of the LOI. *Id.* at 1-2. He described his intention regarding alcohol consumption to be abstinent from alcohol for at least 365 days; however, he stated that, in the future, he would like to enjoy a glass of wine with dinner without his wife feeling concerned about his alcohol consumption. *Id.* at 6.

In April 2021, the Individual underwent an evaluation with the Psychologist. Ex. 8. During the evaluation, the Individual denied any current use of alcohol. *Id.* at 4. However, when the Psychologist informed the Individual that he would be subjected to laboratory testing, the Individual disclosed that he last consumed alcohol approximately one month prior to the evaluation, consuming one drink. *Id.* at 4. As part of the evaluation, the Psychologist ordered a Phosphatidylethanol (PEth) test, which measured the Individual's blood PEth level at 641 ng/mL. *Id.* at 7. The Report noted that a result over 200 ng/mL indicated "heavy" alcohol consumption, consisting of "at least 4 drinks/day several days a week" over the 28 days prior to the test. *Id.* at 7, 8. The Psychologist determined that the Individual's PEth result was inconsistent with his reported alcohol consumption. *Id.* at 9.

Ultimately, the Psychologist determined that the Individual met the criteria for a diagnosis of Alcohol Use Disorder, Moderate. *Id.* at 10. The Psychologist opined that the Individual had not demonstrated adequate evidence of rehabilitation or reformation. *Id.* Given the Individual's history of relapse following alcohol treatment, the Psychologist stated that, in order to demonstrate adequate evidence of rehabilitation or reformation, the Individual needed to comply with a "long-term substance recovery treatment program" that is "intensive and highly structured." *Id.* The Psychologist additionally recommended that the Individual attend "daily meetings of substance recovery activities for at least 12 months" and undergo "toxicology testing in order to monitor his abstinence."<sup>3</sup> *Id.* The Psychologist stated that if the Individual were to participate in an Intensive Outpatient Program (IOP) for 12 to 16 weeks with a minimum of nine hours of therapeutic and educational meetings per week with an individual therapy component, it would "give [him] confidence in [the Individual's] reformation." *Id.*

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<sup>3</sup> Although the Report did not expressly state that the Individual should remain abstinent from alcohol for a period of one year, the Psychologist stated that if the Individual were "able to remain free of alcohol use for a 12-month period, outside of a residential setting," the frequency of his daily substance recovery meetings could be reduced. Ex. 8 at 10.

At the hearing, the Individual testified on his own behalf. He did not dispute the allegations contained in the Summary of Security Concerns, but rather sought to mitigate the security concerns. *See* Tr. at 10-11. The Individual testified that he enrolled in a 90-day inpatient treatment program in August 2020. *Id.* at 24, 42. The program consisted of weekly alcohol testing, twice monthly individual counseling, and twice weekly group meetings. *Id.* Immediately following the inpatient program, the Individual joined the relapse prevention program which consisted of weekly meetings, individual counseling on a monthly basis, and monthly substance testing. *Id.* at 25. The Individual stated that he stopped attending the program in February 2021 and began consuming alcohol again. *Id.* He quickly realized, however, that he was “right back in [the] pattern” of alcohol consumption, and he joined the relapse prevention program again in late February or early March 2021. *Id.* He testified that he has been active in the program since that time, and through the individual counseling, he has learned skills to help him maintain his abstinence, such as creating a plan if he is attending an event where alcohol may be present. *Id.* at 26, 43. He has further learned what triggers him to consume alcohol and how to appropriately address those triggers. *Id.* at 43, 49.

The Individual stated that, at the time he completed the inpatient program, his goal was to become a “normal drinker,” and as such, he was participating in the relapse prevention program “but not to perfection.” *Id.* The Individual clarified that he felt that he was “kind of just going through the motions of the program.” *Id.* at 28. In late April 2021, the weekend prior to meeting with the Psychologist, the Individual participated in a three-day golf outing during which he consumed a “six-pack a day.” *Id.* at 27. The Individual acknowledged that he exhibited poor judgment, but he thought he could be a “normal drinker.” *Id.* When he met with the Psychologist a few days later, the Individual stated that he misrepresented his alcohol consumption because he was “fearful that it would affect [his] clearance, that it would affect [his] job, [and his] ability to provide for [his] family.” *Id.* at 19.

The Individual testified that he last consumed alcohol on September 30, 2021. *Id.* at 22. He stated that he received the Report in October 2021, and, in November 2021, he actively began participating in daily Alcoholics Anonymous (AA) meetings. *Id.* at 28, 31; *see* Ex. J.<sup>4</sup> At the end of January 2022, the Individual began working with a sponsor and working through the Twelve Steps. *Id.* at 31-32. He noted that the reason for his previous relapses was that he did not acknowledge his Alcohol Use Disorder, but he has now “finally admitted” that he is an “alcoholic.” *Id.* at 29. The Individual testified that “it was super hard to admit that [he] had a problem [with alcohol], but once [he] did, it was a huge growth moment [that]...allowed [him] to move forward with [his] life.” *Id.* at 35.

He stated that he now realizes that he cannot consume alcohol in the future and receives injections of a medication that helps to prevent his alcohol cravings. *Id.* at 22, 30-31. The Individual testified that he has learned multiple skills through AA and his relapse prevention program that help him in his sobriety, including mindfulness, “radical acceptance,” gratitude, and meditation. *Id.* at 51-52. Furthermore, in November 2021 and February 2022, the Individual underwent voluntary PEth tests, both of which were negative for the presence of alcohol. *Id.* at 33; Ex. I. He believes he has a “strong support system” through AA and his hospital system and cannot “imagine drinking alcohol again.” *Id.* at 34-35.

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<sup>4</sup> The Individual testified that he has been attending AA meetings on a nearly daily basis, but his attendance records, contained in Exhibit J, are not entirely complete as oftentimes the meeting leader would not provide an attendance verification. Tr. at 64.

The Psychologist testified after observing the hearing and listening to the testimony presented and stated that, as of the date of the hearing, he believed that the Individual had shown adequate evidence of rehabilitation and reformation of his Alcohol Use Disorder. *Id.* at 106, 108. The Psychologist stated that the Individual's testimony, as well as the exhibits in the record, demonstrated that the Individual has been engaged in his treatment in the time since he evaluated the Individual. *Id.* at 107. He further added that relapses are "an expected course" of Alcohol Use Disorder, especially early in the recovery process. *Id.* at 110. The Psychologist noted that the Individual was "expressing many of the beliefs and sort of cognitive changes that indicate that someone is engaged in the treatment, ... [and] understands the effects of alcohol on themselves." *Id.* He stated that a person's ability to make cognitive changes is a factor that "sets someone up for recovery," and provides a better outcome with a lower risk of relapse. *Id.* The Psychologist identified five cognitive changes that he observed, namely that the Individual knows that: (1) he has a problem with alcohol; (2) he needs to be in recovery; (3) he cannot consume alcohol; (4) engagement in AA and with his sponsor is beneficial to his recovery; and (5) should he consume alcohol again, there will be detrimental effects on his life. *Id.* at 118. The Psychologist also stated that the two recent negative PEth tests gave him confidence in the Individual's rehabilitation. *Id.*

The Psychologist noted that, although the Individual has been completely abstinent from alcohol for only seven months, and a year of treatment and abstinence is the typical recommendation, "there are other factors that go into [the] determination," of whether a person has demonstrated adequate evidence of rehabilitation and reformation, such as the person's level of engagement, his understanding of the recovery process, and his role in engaging in the recovery process. *Id.* at 111. The Psychologist stated that he felt that the Individual articulated each of these factors "very well" in his testimony. *Id.* He stated that he is more concerned about seeing active engagement in treatment and the ability to make "the cognitive shift toward understanding the role of addiction in [one's] life and how [one] engage[s] in the recovery process" than he is about seeing a full year of abstinence. *Id.* He opined that the Individual has "made quite a bit of progress" since the evaluation and believes he is at a low to moderate risk of relapse. *Id.* at 111-112, 115.

Although the Individual's counselor (Counselor) through his hospital-based treatment program did not testify at the hearing, she submitted a letter on the Individual's behalf. Ex. D. She stated that the Individual had been "fully compliant with all aspects of [his] treatment plan," including program attendance and participation in urine screens, all of which were negative for the presence of alcohol. *Id.* The Counselor wrote that the Individual has worked hard to learn new skills and demonstrated openness and willingness to apply the skills he learned in the program. *Id.* She added that she felt that the Individual has made significant changes in his life, and his actions and attitude reflected the priority he has placed on his sobriety. *Id.* The Counselor also included a list of 20 classes and groups the Individual attended throughout his time in the treatment program, including but not limited to: cognitive therapy; how to effectively cope with triggers, urges and cravings; sober living; refusal skills; and relapse prevention. *Id.* Another of the Individual's providers, a Certified Alcohol Drug Abuse Counselor (CADAC) associated with the relapse prevention group, submitted a brief statement noting that, in late 2021 and early 2022, the Individual had "taken [his] recovery to a new level of commitment, evidenced by weekly attendance at AA meetings in addition to attending" his relapse prevention group. *Id.* The Provider stated that the Individual's prognosis for continued sobriety was "very good." *Id.*

## 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 restoring the Individual's DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). 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). If an individual acknowledges the pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and demonstrates 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, Moderate. *See id.* at ¶ 22(a), (d). Since that time, the Individual has maintained his abstinence from alcohol and has undergone two PEth tests, both of which were negative for the presence of alcohol. The Individual has been actively engaged in nearly daily AA meetings and has been engaged in his relapse prevention group. He was able to explain, in detail, the skills he has learned and the impact these groups have had on positively influencing his recovery. Furthermore, the Psychologist testified that the Individual has demonstrated adequate evidence of rehabilitation and reformation from the Alcohol Use Disorder. I find compelling the Psychologist's testimony regarding the ample strides the Individual has made in his journey of rehabilitation and reformation. The Psychologist was able to persuasively explain how the cognitive changes he observed in the Individual, as well as the Individual's engagement in his recovery, outweigh the fact that the Individual has not yet achieved a full year of abstinence. The Psychologist's determination is supported by the opinions of the Individual's own providers who opined that the Individual has prioritized his sobriety and has a "very good" prognosis for continued sobriety. As such, 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. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals