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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: February 7, 2022) Case No.: PSH-22-0054
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Issued: June 6, 2022

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXX XXXXX (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."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 not be restored.

I. BACKGROUND

The Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. On April 7, 2021, the local security office (LSO) was notified that a temporary order of protection had been issued against the Individual for domestic abuse and that he had entered treatment for alcohol misuse. Exhibit (Ex.) 6. According to documents appended to the notification, the Individual's wife returned home after leaving their two-year old son in the Individual's care to find the Individual "passed out" from the effects of alcohol consumption. *Id.* at 8. The Individual disclosed later that day that he was contemplating suicide. *Id.* The Individual was subsequently admitted to a hospital and underwent a psychiatric evaluation. *Id.* After his release from the hospital, the Individual's wife obtained a temporary order of protection (Restraining Order) against him. *Id.* at 3.

¹ 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 LSO issued the Individual a letter of interrogatory (LOI) concerning his alcohol use. Ex. 7. In his response to the LOI, the Individual indicated that he had relapsed following inpatient treatment for alcohol misuse and had threatened to harm himself. *Id.* at 1, 11.

A DOE-contracted psychologist (DOE Psychologist) conducted a clinical interview of the Individual on September 20, 2021. Ex. 8 at 3.² At the request of the DOE Psychologist, the Individual provided blood and urine samples for laboratory testing. *Id.* at 8–9. A Medical Doctor (MD) who interpreted the results of the laboratory tests indicated that the blood test results were “congruent with very heavy alcohol consumption.” *Id.* at 31. On September 28, 2021, the DOE Psychologist issued a Psychological Assessment (Report) in which he determined that the Individual met the diagnostic criteria for Alcohol Use Disorder (AUD), Severe, not in remission, under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*. *Id.* at 11–12. The DOE Psychologist also determined that the Individual’s “potential for suicide” constituted “an emotional, mental, or personality condition [] that can impair judgment, reliability[,] stability[,] or trustworthiness.” *Id.* at 12.

The LSO issued the Individual a letter in which it notified him that it was suspending his security clearance because it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) and Guideline I (Psychological Conditions) 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 hearing. The LSO submitted twelve exhibits (Ex. 1–12). The Individual did not submit any exhibits. The Individual testified on his own behalf and offered the testimony of a manager employed by the DOE contractor (Manager). Hearing Transcript (Tr.) at 3, 11–12. The LSO offered the testimony of the DOE Psychologist. *Id.* at 3.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline G (Alcohol Consumption) as the first basis for its determination that the Individual was ineligible for access authorization. Ex. 1. “Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. The SSC cited the DOE Psychologist’s determination that the Individual met the diagnostic criteria for AUD, Severe, not in remission, under the *DSM-5*, the Individual’s consumption of alcohol to the point of intoxication while acting as the sole caregiver to his young son, the Individual’s hospitalization following threats of suicide after drinking, and the issuance of the Restraining Order against the Individual following his hospitalization. Ex. 1. The LSO’s assertions that the

² The internal pagination of numerous exhibits offered by the LSO does not correspond to the number of pages included in the exhibits. For example, the second page of Exhibit 8 is marked as page 1 due to an unnumbered first page. This Decision cites to pages in the order in which they appear in exhibits without regard for their internal pagination.

Individual engaged in alcohol-related incidents away from work, habitually or binge consumed alcohol to the point of impaired judgment, and was diagnosed with AUD by the DOE Psychologist justify the LSO's invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a), (c)–(d).

The LSO cited Guideline I (Psychological Conditions) as the other basis for its determination that the Individual was ineligible for access authorization. Ex. 1. "Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline." Adjudicative Guidelines at ¶ 27. The SSC's citation to the opinion of the DOE Psychologist that the Individual's potential for suicide constituted a condition that may impair his judgment, stability, reliability, or trustworthiness justifies the LSO's invocation of Guideline I. Adjudicative Guidelines at ¶ 28(a).

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep't of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990), cert. denied, 499 U.S. 905 (1991) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

The Individual began consuming six or more alcoholic drinks daily in 2013 after his ex-wife initiated divorce proceedings. Ex. 8 at 4. The Individual stopped consuming alcohol in 2014 for several months due to concerns that it was harmful to his health, and experienced "nausea, headaches[,] and 'the shakes'" during this period. *Id.* The Individual met his current wife in 2014 and resumed consuming alcohol in moderation. *Id.*

In April 2020, as a result of the COVID-19 pandemic, the Individual began working from home. *Id.* at 5. The Individual's alcohol consumption increased to four to six "shots" five days per week, which the Individual attributed to job-related stress and "a lot of free time." *Id.* In December 2020, the Individual began consuming alcohol in the morning to manage the effects of his drinking from

the night before. *Id.* The Individual's morning alcohol consumption increased to three shots of alcohol daily to control "headaches, nausea, and shakes." *Id.*

In February 2021, the Individual voluntarily admitted himself to an inpatient substance abuse treatment center for alcohol-related treatment. Ex. 7 at 7; Ex. 8 at 5. The Individual participated in a "detoxification" program for one week and then inpatient treatment for four weeks. Ex. 7 at 7; Ex. 8 at 5. As part of his inpatient treatment, the Individual participated in group and individualized counseling, meditation, breathing exercises, and yoga. Ex. 7 at 7. The Individual was discharged from inpatient treatment on March 9, 2021. *Id.*; Ex. 8 at 5. Following discharge from the inpatient treatment center, the Individual was prescribed medication to help him manage his alcohol cravings. Ex. 8 at 5. The Individual discontinued the medication after one week because it "upset his stomach." *Id.*

On March 19, 2021, the Individual's wife left their two-year old son in his care while she went to an appointment. Ex. 6 at 8. When she returned, she observed the Individual "passed out" from the effects of alcohol consumption.³ *Id.* Later that day, the Individual communicated to his mother and brother that he was contemplating suicide. Tr. at 60–61 (reflecting the Individual's testimony at the hearing that his suicidal statements were the product of his intoxication and "a cry for help"); Ex. 6 at 8; Ex. 7 at 11; Ex. 8 at 5.

The Individual's mother transported the Individual to a hospital after he expressed suicidal ideation. Ex. 11 at 10. Upon admission he stated, "I want to kill myself, please help me," but later recanted his suicidal ideation. *Id.* at 1, 3. The hospital measured the Individual's Breath Alcohol Content at .21. *Id.* at 10, 12. The Individual left the hospital that evening against medical advice because he "want[ed] to leave and drink . . ." *Id.* at 4. Several days later, the Individual's wife obtained the Restraining Order against him based on his threats of suicide. Ex. 6 at 3–5.

On March 30, 2021, the Individual enrolled in an intensive outpatient treatment program (IOP). Ex. 10 at 4. The IOP included weekly individualized therapy, multiple weekly group sessions, and yoga. *Id.* at 2–3; Ex. 7 at 9. As a condition of his participation in the IOP, the Individual agreed to abstain from alcohol and undergo alcohol testing upon request. Ex. 10 at 15. However, the Individual consumed alcohol during his participation in the IOP. *Id.* at 74 (indicating that the Individual told a staff clinician on May 21, 2021, that he was drinking six shots of alcohol each weekend). Treatment notes from May 28, 2021, indicate that a staff clinician found the Individual to be unreceptive to psychoeducation on alcoholism and that he demonstrated "poor insight and judgment into his drinking." *Id.* at 191. On June 4, 2021, a clinician confronted the Individual

³ The Individual claimed that he had "decided to nap" while his son was sleeping and that he had not passed out from the effects of alcohol consumption. Ex. 8 at 5; Tr. at 23. However, the Individual's wife indicated in her petition for the Restraining Order that she had found nineteen miniature bottles of alcohol hidden in the family home after returning to find the Individual "in no state of mind to take care of [their son]." Ex. 6 at 8. The Individual told the DOE Psychologist that he had consumed alcohol the night before and the morning of the incident, and that his memory of the day in question was "very foggy" due to the effects of alcohol. Ex. 8 at 5. Furthermore, the Individual's Breath Alcohol Concentration was measured at .21 when he was admitted to the hospital for treatment. Ex. 11 at 12. Taking together the Individual's wife's account of observing the Individual intoxicated and finding hidden bottles of alcohol, the Individual's admission that he consumed alcohol prior to his wife returning home, his admission that he experienced memory loss that day due to the effects of alcohol, and the alcohol testing records from the Individual's hospitalization, I find it more probable that he lost consciousness due to intoxication than that he chose to fall asleep.

regarding whether a urine sample he provided for testing was his urine and the Individual admitted to having paid another person to provide him with the sample.⁴ *Id.* at 85.

On June 7, 2021, the Individual submitted his response to the LOI. Ex. 7 at 18. In his response, the Individual falsely indicated that he had not consumed alcohol to intoxication since March 19, 2021. *Id.* at 5. The Individual represented that he had not reported his inpatient alcohol treatment to the LSO because he “was unaware that voluntary treatment was in need [sic] to be reported.” *Id.* at 8.

On June 23, 2021, the Individual began weekly counseling with a Licensed Professional Clinical Counselor (LPCC). Ex. 8 at 8. The Individual’s sessions with the LPCC focused on triggers that caused him to want to consume alcohol, managing his anxiety, and implementing weekly goals for promoting psychological wellness such as meeting new people or making lists of positive things. Tr. at 44.

On September 20, 2021, the Individual met with the DOE Psychologist for a clinical interview. Ex. 8 at 3. The Individual told the DOE Psychologist that he had last consumed alcohol ten days prior to the clinical interview when he claimed he consumed two beers.⁵ *Id.* at 7. The Individual expressed the intention to consume alcohol in moderation going forward. *Id.* at 8. Although he characterized himself as an “alcoholic,” he told the DOE Psychologist that he did not consider his recent alcohol consumption to be a relapse because he had “permitted himself” to drink in moderation several times per month. *Id.* at 9. He acknowledged that he became “a little depressed” three to five times monthly when he felt particularly isolated, but denied suicidal ideation and expressed that he made his prior suicidal statements because he “believed [his] life was over” due to potentially losing his wife and child. *Id.* at 10.

At the request of the DOE Psychologist, the Individual provided laboratory samples for Ethyl Glucuronide (EtG) and Phosphatidylethanol (PEth) tests. *Id.* at 8. The EtG test was negative, which the MD interpreted as “strong medical evidence that the [Individual] was abstinent from alcohol during the three days prior to the sample collection.” *Id.* at 31. The PEth test was positive at a level of 338 nanograms (ng) per milliliter (mL). *Id.* Based on the negative EtG test, and the average half-life of the PEth molecule, the MD calculated that the Individual’s PEth level was approximately 507 ng/mL four days prior to the specimen collection. *Id.* The MD opined that the Individual’s estimated PEth level was “congruent with very heavy alcohol use” and noted a study finding comparable PEth levels correlated to daily consumption of six alcoholic drinks. *Id.*

⁴ At the hearing, the Individual denied that he had obtained urine from another person and represented that he was being sarcastic when he told the IOP clinician that he had done so. Tr. at 29–30. The Individual explained that he believed that the IOP was trying to extend his participation in the program in order to charge him more money, and that he made the sarcastic comment because of his frustration at this behavior. *Id.* at 28–30, 49–51. I did not credit the Individual’s account of events because the treatment notes from the IOP clinician do not contain any indication that the Individual was being facetious when he made the remark and the Individual’s untruthfulness to the LPCC and DOE Psychologist show that he will act deceptively to hide his alcohol consumption.

⁵ At the hearing, the Individual testified that he had reported having consumed two beers to the DOE Psychologist, instead of the larger amount of alcohol that he had consumed, because he “assumed that [he] would be tested for alcohol and needed to admit that there was going to be alcohol in [his] system at that time.” Tr. at 70. The Individual’s calculated untruthfulness regarding his alcohol consumption to the DOE Psychologist casts significant doubt on his credibility.

Following the clinical interview, the DOE Psychologist contacted the LPCC. *Id.* at 8. The LPCC told the DOE Psychologist that the Individual had reported abstaining from alcohol since June 2021, and that he “was surprised” when the DOE Psychologist informed him of the Individual’s recent alcohol use. *Id.* The LPCC expressed concern to the DOE Psychologist about the Individual’s dishonesty and opined that his prognosis for the Individual’s recovery was “not especially good.” *Id.*

On September 28, 2021, the DOE Psychologist issued his Report. *Id.* at 12. In his Report, the DOE Psychologist opined that the Individual met the diagnostic criteria for AUD, Severe, not in remission, under the *DSM-5*. *Id.* at 11. The DOE Psychologist stated that the Individual could demonstrate rehabilitation from AUD by abstaining from alcohol for eighteen months, undergoing PEth tests every three weeks or EtG tests every three days to substantiate his abstinence from alcohol, and continuing therapy with the LPCC. *Id.* at 12. The DOE Psychologist also opined that the Individual’s potential for suicide constituted a mental condition which could impair his judgment and emotional stability. *Id.* The DOE Psychologist recommended that the Individual address this concern by consulting with a psychiatrist. *Id.*

The Manager, who previously supervised the Individual, testified at the hearing that the Individual’s work performance had been excellent for the five years in which he had worked with the Individual. Tr. at 11–12. The Manager never observed the Individual appear to be under the influence of alcohol at work or had reason to believe that the Individual’s alcohol consumption was impacting his work. *Id.* at 18. He also reported having received the results of urinalysis testing of the Individual for evidence of alcohol or illegal drugs, each of which was negative, but could not recall when he last received a test result. *Id.* at 17–18.

The Individual testified that he last consumed alcohol approximately two weeks prior to the hearing when he represented that he consumed a 20-ounce beer with dinner. *Id.* at 52. The Individual expressed the intention to abstain from alcohol in the future because he has accepted that he is an alcoholic with “a serious problem” who cannot “get away with a beer here or there.” *Id.* at 57–59. Despite his recent alcohol consumption, he opined that he was “still in sobriety” because he was able to restrain himself from consuming alcohol to intoxication. *Id.* at 58.

The Individual asserted that he was undergoing weekly alcohol testing, daily breathalyzer testing, and weekly counseling with the LPCC, and that he was relying on the tools he learned through treatment to manage his AUD. *Id.* at 25. However, he subsequently recanted his testimony that he was undergoing weekly alcohol testing, testified instead that he obtained urinalysis testing whenever he could afford it, and admitted that he had not undergone urinalysis testing in over three weeks. *Id.* at 55–56. The Individual also acknowledged that he began the daily breathalyzer testing – which was provided to his child’s court-appointed guardian *ad litem* as part of divorce proceedings his wife initiated in February 2022 – within two weeks of the date of the hearing. *Id.* at 31–32, 54, 59.

The Individual represented that he began attending AA meetings on a weekly basis approximately four months prior to the hearing. Tr. at 44–45. However, the Individual did not work the twelve steps of the AA program, could only recall two of the steps when asked about them at the hearing,

was not pursuing obtaining a sponsor, and did not produce sign-in sheets or other documentation of his attendance. *Id.* at 45–48.

The Individual denied that he is at an elevated risk of suicide because he has “no experience with trying to commit suicide or having suicidal thoughts.” *Id.* at 59. The Individual represented that his prior suicidal statements were “a cry for help” and not sincere threats. *Id.* at 60–61. He denied experiencing suicidal thoughts since meeting with the DOE Psychologist. *Id.* at 59–60. He testified that the LPCC had directed their sessions away from the issue of suicidal ideation because the LPCC “didn’t feel like that was the best use of [their] time” and he wished to focus on the Individual’s alcohol misuse and anxiety. *Id.* at 63.

The DOE Psychologist testified that the Individual had not demonstrated rehabilitation from his AUD. *Id.* at 80. The DOE Psychologist opined that the Individual had been dishonest in reporting his alcohol consumption, and that he consequently doubted the Individual’s reporting of his behavior. *Id.* at 80–81. The DOE Psychologist also noted that he was not in possession of the results of the alcohol testing that the Individual claimed to have undergone. *Id.* at 81–82. The DOE Psychologist opined that breath alcohol and urinalysis tests taken at times of a person’s choosing were not strong evidence of a person’s abstinence because of the limited period of time these tests can measure and the ability of a person to arrange to take the test once the alcohol is no longer detectable. *Id.* at 82–83. The DOE Psychologist also opined that the Individual’s relapse approximately two weeks prior to the hearing was evidence that his AUD was not in remission. *Id.* at 85.

The DOE Psychologist opined that the Individual’s statements during the clinical interview to the effect that he was “alone,” that his wife and children “have been taken from him,” and that the experience had been “terrible for him” placed him at an elevated risk of suicide. *Id.* at 87. He opined that nothing he had heard during the hearing convinced him that the Individual’s risk of suicide was diminished. *Id.* at 87–88. He also expressed concern that the LPCC had not adequately addressed the Individual’s prior suicidal ideation. *Id.* at 88.

V. ANALYSIS

A. Guideline G

The LSO’s allegations that the Individual consumed alcohol to the point of intoxication while acting as the sole caregiver for his young son and was consequentially issued the Restraining Order, was admitted to in-patient alcohol treatment, habitually or binge consumed alcohol to the point of impaired judgment, and was diagnosed with AUD, justify the LSO’s invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a), (c)–(d). Conditions that could mitigate security concerns under Guideline G include:

- (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; and,
 - (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.

Id. at ¶ 23(a)–(d).

The Individual's alcohol misuse is frequent and recent. He has consumed alcohol heavily, albeit with interruptions related to episodes of treatment, since April 2020. He admitted during the hearing to having consumed alcohol against treatment recommendations approximately two weeks prior to the hearing. The Individual sought to attribute his alcohol misuse to unusual circumstances associated with isolation during the early stages of the COVID-19 pandemic and fear of the dissolution of his marriage. However, the record shows that he misused alcohol to cope with emotional distress from the dissolution of a prior marriage and has continued to misuse alcohol even after COVID-19-related restrictions have been lifted and his wife filed for divorce. In light of the persistence and recency of the Individual's alcohol misuse, I find that the first mitigating condition under Guideline G is inapplicable. *Id.* at ¶ 23(a).

While the Individual has acknowledged his maladaptive alcohol use and taken steps to address the problem, he has not shown a clear and established a pattern of abstinence in accordance with treatment recommendations. By his own admission, the Individual consumed alcohol approximately two weeks prior to the hearing. Although he claims to have consumed alcohol in moderation, he acknowledges that any level of alcohol consumption on his part is unsafe and against treatment recommendations. Moreover, the Individual has not provided the results of any alcohol testing to support his claims. In light of the Individual's history of falsely reporting his level of alcohol consumption to the LPCC, in response to the LOI, and to the DOE Psychologist, I find that his claims to have consumed alcohol in moderation are insufficiently substantiated for me to credit them. Thus, I find that the second mitigating condition under Guideline G is inapplicable. *Id.* at ¶ 23(b).

The third mitigating condition under Guideline G is inapplicable because it is undisputed that the Individual relapsed following inpatient treatment and the IOP. *Id.* at ¶ 23(c). The Individual's prior treatment was not successful, as demonstrated by the treatment notes from the IOP showing the Individual's limited progress and his consumption of alcohol during treatment against recommendations. Moreover, as described above, the Individual has not established a pattern of abstinence in accordance with treatment recommendations. Therefore, I find the fourth mitigating condition under Guideline G inapplicable. *Id.* at ¶ 23(d).

In light of the Individual's history of significant alcohol misuse, his continued consumption of alcohol against treatment recommendations, his unreliability in reporting his alcohol consumption, and the opinion of the DOE Psychologist that he is not rehabilitated from his AUD, I find that the Individual's reliability and trustworthiness remain compromised by his alcohol consumption.

Accordingly, I find that the Individual has not resolved the security concerns asserted by the LSO under Guideline G.

B. Psychological Conditions

The DOE Psychologist's opinion that the Individual's potential for suicide constituted a condition that may impair his judgment, stability, reliability, or trustworthiness justifies the LSO's invocation of Guideline I. Adjudicative Guidelines at ¶ 28(a). Conditions that could mitigate security concerns under Guideline I include:

- (a) the identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) 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;
- (c) [a] recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government [indicates] that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
- (d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;
and,
- (e) there is no indication of a current problem.

Id. at ¶ 29(a)–(e).

The first two mitigating conditions under Guideline I are inapplicable because the Individual denied that he is pursuing treatment specifically related to his risk of suicide and there is no information from the LPCC to suggest that his counseling has reduced his risk of suicide or that he has a favorable prognosis. *Id.* at ¶ 29(a)–(b). The third mitigating condition is inapplicable because the DOE Psychologist opined at the hearing that the Individual remains at heightened risk of suicide. *Id.* at ¶ 23(c).

While the Individual asserts that his prior suicidal ideation was a “cry for help,” and that there is not a current problem, he has offered no evidence of this claim besides his own testimony. In the absence of the favorable opinion of a clinician with knowledge of the Individual's wellbeing, or of testimony from the family members to whom the Individual expressed his suicidal ideation as to his changed mental state, the Individual has not put forth sufficient evidence to overcome the DOE Psychologist's opinion that he remains at an elevated risk of suicide. Thus, I find the fourth and fifth mitigating conditions inapplicable. *Id.* at ¶ 23(d)–(e).

As the Individual has not pursued treatment related to his suicidal ideations, and has not brought forth testimony from witnesses who can attest that his mental state has improved since he expressed thoughts of suicide, I find that he has not resolved the security concerns asserted by the LSO under Guideline I.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G and I 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 restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals