



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 it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. In the Summary of Security Concerns (SSC), attached to the Notification Letter, the LSO explained that the derogatory information raised a security concern under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Ex. 2.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations to request an administrative review hearing. *Id.* 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 nine numbered exhibits (Exs. 1–9) into the record. The Individual did not introduce any exhibits into the record, but he presented his own testimony. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

## **II. Regulatory Standard**

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all 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 (9<sup>th</sup> Cir. 1990) (strong presumption against the issuance of a security clearance).

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization “will not endanger the common defense and security and will be clearly consistent with the national interest.” 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 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 SSC, which sets forth the derogatory information that raised concerns about the Individual's eligibility for access authorization. The SSC specifically cites 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 DOE Psychiatrist's October 2022 determination that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision* (DSM-5-TR) criteria for Alcohol Use Disorder, Severe, without adequate evidence of rehabilitation or reformation.<sup>2</sup> Ex. 1. The LSO additionally cited that the result of the Individual's Phosphatidylethanol (PEth) test, which he underwent as part of the October 2022 psychological evaluation, was positive at a level of 1,697 ng/mL, and that the DOE Psychiatrist noted this was congruent with heavy alcohol consumption. *Id.*

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

##### **A. Psychological Evaluation**

After the October 2022 evaluation with the DOE Psychiatrist, the DOE Psychiatrist issued a report (Report), detailing his findings. Ex. 7. According to the Report, the Individual disclosed that "he is 'battling alcoholism.'" *Id.* at 3. The Individual elaborated, telling the DOE Psychiatrist that, around 2016 or 2017, the Individual began consuming beer and hard liquor to the point of intoxication on a daily basis. *Id.* at 3. Then, in approximately 2018, upon separating from his wife, "he increased his alcohol consumption until he was eventually consuming a fifth of 'cheap vodka' a day." *Id.* The Individual disclosed to the DOE Psychiatrist that, at one point, he was consuming alcohol before, during, and after work, and although he did not think that he consumed enough alcohol during the day to be impaired, he was consuming alcohol "to stop withdrawal symptoms." *Id.* The Individual clarified that he would become "drunk" after work. *Id.* The Individual told the DOE Psychiatrist that he "look[ed] into treatment" at his local medical university, but he determined that that he could not afford it. *Id.*

According to the Report, by February 2021, the Individual's father traveled to the state in which the Individual was living to monitor him as he became abstinent from alcohol. *Id.* The Individual stated that he was able to remain abstinent for two months, but he disclosed that he began using alcohol again "due to feeling lonely." *Id.* The Individual stated that he increased his alcohol use until he was, again, consuming a fifth of vodka per day. *Id.* He told the DOE Psychiatrist that he continued in this pattern until early 2022, when he moved across country to a state in which he had family support. *Id.* at 4. The Individual noted that, at that time, he had withdrawal symptoms from alcohol, including shakes and elevated vital signs. *Id.* The Individual reported to the DOE Psychiatrist that he was prescribed a medication that caused an adverse reaction when he consumed alcohol, and while on the medication, he remained abstinent from alcohol from March to August of 2022. *Id.* Around August of 2022, his medication was changed, and he resumed his alcohol consumption as he felt that the medication "did not work."<sup>3</sup> *Id.* The Individual told the DOE

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<sup>2</sup> It should be noted that the SCC miscited the edition of the DSM that the DOE Psychiatrist utilized in making his diagnosis. *See* Ex. 1 at 1.

<sup>3</sup> According to the Report, prior to the evaluation, the DOE Psychiatrist contacted the medical provider (Provider) who had prescribed the aforementioned medications. Ex. 7. at 6. The Provider indicated that she had seen the Individual once in early August 2022 and had one follow-up phone call with him. *Id.* She noted that she had scheduled a follow-up appointment with the Individual, but the Individual failed to show. *Id.* The Provider diagnosed the Individual with Alcohol Abuse and Alcohol Withdrawal. *Id.* She noted that she switched the Individual's medication due to a concern regarding the Individual's liver function, and although she ordered laboratory tests for his liver, the Individual did not have the tests performed. *Id.*

Psychiatrist that he planned to speak with his primary care provider about resuming the previous medication. *Id.*

The Individual reported to the DOE Psychiatrist that, at the time of the evaluation, he was consuming two to six beers of 6% alcohol by volume, over the course of four to five hours, on most days. *Id.* The Individual noted that he usually felt intoxicated after this level of consumption but believed that he had developed a tolerance to the alcohol. *Id.* The Individual disclosed that he had gone to work hungover, and he believed he was addicted to alcohol, was unable to stop consuming it, and had difficulty controlling how much he consumes. *Id.* He additionally stated that he thought the alcohol was “killing” him. *Id.* According to the Report, the Individual expressed an intent to cease his alcohol use and remain sober. *Id.* at 5. He wanted to resume a medication to help him reach his goal, and he “would like to access the Employee Concerns Program” (ECP) for assistance. *Id.*

As part of the evaluation, the DOE Psychiatrist ordered a PEth test which returned a positive result of 1,697 ng/mL. *Id.* at 6. The DOE Psychiatrist noted that this PEth level was “congruent with heavy alcohol consumption” and cited a study indicating that a PEth level of 1,749 ng/mL was found in individuals consuming an average of seventeen standard alcohol drinks per day. *Id.* As such, the DOE Psychiatrist concluded that the Individual was engaging in a “much higher consumption” than he was reporting. *Id.*

Ultimately, the DOE Psychiatrist determined that the Individual met the criteria for Alcohol Use Disorder, Severe. *Id.* He explained that the Individual had symptoms of:

inability to control his alcohol use (both consuming more than intended and unsuccessful attempts to cut down), tolerance, withdrawal symptoms when he stopped use, continued use despite physical problems caused by his alcohol use, spending a great deal of time using alcohol (every evening) and failure to meet expectations at work (going in hungover and going to work intoxicated in the past).

*Id.* The DOE Psychiatrist noted that because the Individual continued to consume alcohol to the point of intoxication, despite knowing the issues alcohol had caused in his life, there was not adequate evidence of rehabilitation or reformation. *Id.*

The DOE Psychiatrist advised that, due to the severity of the Individual’s disorder, the Individual should first discuss a medical detoxication protocol with his medical providers. *Id.* at 7. In order to establish evidence of rehabilitation, the DOE Psychiatrist recommended that the Individual engage in an Intensive Outpatient Program (IOP), followed by a year of weekly IOP aftercare or weekly outpatient counseling. *Id.* He additionally recommended that the Individual participate in recovery meetings at least three times per week for one year. *Id.* The DOE Psychiatrist further recommended that the Individual undergo random breath and urine alcohol tests through his place of employment and undergo monthly PEth testing, which would be at his own expense, for a year. *Id.* He also recommended that the Individual should take any medications prescribed to him by his medical providers for the Alcohol Use Disorder. *Id.* To show evidence of reformation, the DOE

Psychiatrist recommended that the Individual remain abstinent from alcohol for a period of one year; however, he noted that, due to the severity of the Individual's disorder, he advised that the Individual remain abstinent from alcohol indefinitely. *Id.*

## **B. Hearing Testimony**

At the hearing, the Individual testified on his own behalf. He stated that he had read the Report and understood it to say that he is "diagnosed as an alcoholic," and he "definitely need[s] help."<sup>4</sup> Tr. at 17. He additionally noted that he agreed with the Report. *Id.* The Individual testified that, as of the date of the hearing, he was "still drinking" and became intoxicated the weekend prior to the hearing. *Id.* at 21–23. He noted that, since working for the DOE contractor, he had taken leave due to his excessive alcohol consumption. *Id.* at 23. The Individual testified that he had not yet sought the support of the Employee Assistance Program (EAP), entered an IOP, participated in a recovery groups, or undergone any alcohol testing. *Id.* at 20–21, 34. However, the Individual stated that he intends to "go through pretty much exactly" that which the DOE Psychiatrist recommended to achieve rehabilitation and reformation from the Alcohol Use Disorder. *Id.* at 17. He testified that he planned to call his primary care provider after the hearing to set up an appointment to share the Report "so that the [primary care provider] knows exactly what [he] . . . need[s to] go through." *Id.* at 20.

The Individual explained that his motivation for overcoming the Alcohol Use Disorder was "not even so much for the clearance, it's just for myself, because I really want help." *Id.* at 18. He testified:

I don't want to drink. I mean, I want to get away from it. It's [taken] a big part of my life. It's just – it's one of the hardest struggles I've been through. I mean, it's addiction. But I want to get away from it, and I need to get away from it.

*Id.* at 24. The Individual expressed that he intends to "better [his] life," but he just needs more time to do so. *Id.* at 41.

A DOE consultant psychiatrist (DOE Expert) also testified at the hearing.<sup>5</sup> *Id.* at 48. The DOE Expert testified that he reviewed the Report, did not have any concerns with the DOE Psychiatrist's diagnosis, and thought that the conclusions in the Report were "well reasoned." *Id.* at 49. The DOE Expert also noted that the DOE Psychiatrist's recommendations for rehabilitation and reformation from the Alcohol Use Disorder were "standard." *Id.* He noted that the Individual is likely still consuming alcohol to excess, and although the Individual intended to get started with the treatment recommendations, "which [was] a good sign," he had not yet begun the treatment process. *Id.* at 50. As such, the DOE Expert concluded that the Individual had not yet demonstrated adequate evidence of rehabilitation or reformation. *Id.*

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<sup>4</sup> The Individual testified that he was only able to access a copy of the Report a few days prior to the hearing. Tr. at 20. The record indicates, however, that a copy of the Report was included with the Notification Letter that was sent to the Individual in December of 2022. *See id.* at 37.

<sup>5</sup> The DOE Psychiatrist who evaluated the Individual was unavailable to testify at the hearing. As such, a different DOE consultant psychiatrist testified in his stead. Tr. 48–49.

## V. Analysis

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the Individual and DOE Expert during 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 not sufficiently mitigated the security concerns cited by the LSO under Guideline G of the Adjudicative Guidelines. Therefore, I find that the Individual's access authorization should not be granted. The specific findings that I make in support of this decision are discussed below.

Regarding Guideline G, "diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder" is a condition that could raise a security concern and disqualify an individual from holding a security clearance. Adjudicative Guidelines at ¶ 22(d). Conditions that may mitigate a Guideline G security concern 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 maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol 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.

In this case, the DOE Psychiatrist diagnosed the Individual with Alcohol Use Disorder, Severe, and the Individual himself acknowledged that he was an "alcoholic." The Individual candidly testified that he is still consuming alcohol to the point of intoxication. Although I found his testimony regarding his intent to start treatment to be sincere, the Individual has not yet become abstinent from alcohol and has not begun or completed any treatment to address the Alcohol Use Disorder. As such, at this time, none of the above mitigating conditions apply, and I cannot find that the Individual has mitigated the Guideline G security concerns.

## VII. 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 not brought forth sufficient evidence to resolve the security concerns associated with Guidelines G. Accordingly, I have determined that the Individual's access authorization should not be granted. This Decision may be appealed in accordance with the procedures set forth in 10 C.F.R. § 710.28.

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals