

*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)
)
Filing Date: April 26, 2023) Case No.: PSH-23-0079
)
)
_____)

Issued: July 31, 2023

Administrative Judge Decision

Kristin L. Martin, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as “the Individual”) for access authorization under the 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 For the reasons set forth below, I conclude that the Individual’s security clearance should be granted.

I. BACKGROUND

The Individual is employed by a DOE Contractor in a position which requires that she hold a security clearance. During a background check pursuant to her application for a security clearance, derogatory information was discovered. The Local Security Office (LSO) began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt regarding her eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual presented the testimony of four witnesses and testified on her own behalf. The LSO presented the testimony of a DOE psychologist who had evaluated the Individual. *See* Transcript of Hearing (hereinafter cited as “Tr.”). The LSO submitted 13 exhibits, marked as Exhibits 1 through 13 (hereinafter cited as “Ex.”). The Individual submitted one exhibit, marked as Exhibit A.

¹ Under the regulations, “[a]ccess authorization’ means 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 also be referred to in this Decision as a security clearance.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the Notification Letter informed the Individual that information in the possession of the DOE created a substantial doubt concerning her eligibility for a security clearance. That information pertains to Guidelines E, H, I, and J of the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position*, effective June 8, 2017 (Adjudicative Guidelines). These guidelines are not inflexible rules of law. Instead, recognizing the complexities of human behavior, these guidelines are applied in conjunction with the factors listed in the adjudicative process. 10 C.F.R. 710.7.

Guideline E states that:

Conduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual's reliability, trustworthiness, and ability to protect classified or sensitive information. Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes." Adjudicative Guidelines at ¶15.

Conduct that could raise a security concern includes:

- (a) Deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities;
- (b) Deliberately providing false or misleading information; or concealing or omitting information, concerning relevant facts to an employer, investigator, security official, competent medical or mental health professional involved in making a recommendation relevant to a national security eligibility determination, or other official government representative;
- (c) Credible adverse information in several adjudicative issue areas that is not sufficient for an adverse determination under any other single guideline, but which, when considered as a whole, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual may not properly safeguard classified or sensitive information;
- (d) Credible adverse information that is not explicitly covered under any other guideline and may not be sufficient by itself for an adverse determination, but which, when combined with all available information, supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations, or other characteristics indicating that the individual

may not properly safeguard classified or sensitive information. This includes, but is not limited to, consideration of:

- (1) Untrustworthy or unreliable behavior to include breach of client confidentiality, release of proprietary information, unauthorized release of sensitive corporate or government protected information;
 - (2) Any disruptive, violent, or other inappropriate behavior;
 - (3) A pattern of dishonesty or rule violations; and
 - (4) Evidence of significant misuse of Government or other employer's time or resources;
- (e) Personal conduct, or concealment of information about one's conduct, that creates a vulnerability to exploitation, manipulation, or duress by a foreign intelligence entity or other individual or group. Such conduct includes:
- (1) Engaging in activities which, if known, could affect the person's personal, professional, or community standing;
 - (2) While in another country, engaging in any activity that is illegal in that country;
 - (3) While in another country, engaging in any activity that, while legal there, is illegal in the United States;
- (f) Violation of a written or recorded commitment made by the individual to the employer as a condition of employment; and
- (g) Association with persons involved in criminal activity.

Id. at ¶ 16.

Guideline H states that:

The illegal use of controlled substances, to include the misuse of prescription and non-prescription drugs, and the use of other substances that cause physical or mental impairment or are used in a manner inconsistent with their intended purpose can raise questions about an individual's reliability and trustworthiness, both because such behavior may lead to physical or psychological impairment and because it raises questions about a person's ability or willingness to comply with laws, rules, and regulations. Controlled substance means any "controlled substance" as defined in 21 U.S.C. 802. Substance misuse is the generic term adopted in this guideline to describe any of the behaviors listed [below].

Adjudicative Guidelines at ¶ 24. Conditions that may cause a security concern include:

- (a) Any substance misuse (see above definition);
- (b) Testing positive for an illegal drug;
- (c) Illegal possession of a controlled substance, including cultivation, processing, manufacture, purchase, sale, or distribution; or possession of drug paraphernalia;
- (d) Diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of substance use disorder;
- (e) Failure to successfully complete a drug treatment program prescribed by a duly qualified medical or mental health professional;
- (f) Any illegal drug use while granted access to classified information or holding a sensitive position; and
- (g) Expressed intent to continue drug involvement and substance misuse, or failure to clearly and convincingly commit to discontinue such misuse.

Id. at ¶ 25.

Guideline I states that “[c]ertain 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. Conditions that may cause a security concern include:

- (a) Behavior that casts doubt on an individual’s judgment, stability, reliability, or trustworthiness, not covered under any other guideline and that may indicate an emotional, mental, or personality condition, including, but not limited to, irresponsible, violent, self-harm, suicidal, paranoid, manipulative, impulsive, chronic lying, deceitful, exploitative, or bizarre behaviors;
- (b) An opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness;
- (c) Voluntary or involuntary inpatient hospitalization;
- (d) Failure to follow a prescribed treatment plan related to a diagnosed psychological/psychiatric condition that may impair judgment, stability, reliability, or trustworthiness, including, but not limited to, failure to take prescribed medication or failure to attend required counseling sessions; and
- (e) Pathological gambling, the associated behaviors of which may include unsuccessful attempts to stop gambling; gambling for increasingly higher stakes, usually in an attempt to cover losses; concealing gambling losses; borrowing or stealing money to fund gambling or pay gambling debts; and family conflict resulting from gambling.

Adjudicative Guidelines at ¶ 28.

Guideline J states that criminal activity creates doubt about a person’s judgment, reliability, and trustworthiness and that, by its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations. Adjudicative Guidelines at ¶ 30. Conditions that could raise a security concern include:

- (a) A pattern of minor offenses, any one of which on its own would be unlikely to affect a national security eligibility decision, but which in combination cast doubt on the individual’s judgment, reliability, or trustworthiness;
- (b) Evidence (including, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted;
- (c) Individual is currently on parole or probation;
- (d) Violation or revocation of parole or probation, or failure to complete a court-mandated rehabilitation program; and
- (e) Discharge or dismissal from the Armed Forces for reasons less than “Honorable.”

Id. at ¶ 31.

The LSO alleges that, following a November 2022 evaluation, a DOE-contracted Psychologist (the Psychologist):

- Opined that the Individual has a submissive interpersonal style—which may leave her vulnerable to exploitation;
- Diagnosed the Individual with Major Depressive Disorder, Recurrent, Severe; Posttraumatic Stress Disorder; Somatic Symptom Disorder, and Unspecified Personality Disorder, with borderline personality features (Cluster B); Generalized Anxiety Disorder, and dependent personality traits, which he believed cast doubt on her judgment, reliability, and trustworthiness.
- Reported that the Individual had experienced suicidal thoughts, engaged in self-harm, and was likely co-dependent in relationships;
- Opined that if the Individual avoided mental health counseling and did not take psychotropic medications, “it would be very likely that she would experience episodes of mood dysregulations wherein she would be at significant risk for defective judgment and unreliable behaviors and could be susceptible to engagement in dysfunctional and potentially coercive relationships.”

Ex. 3 at 4–5. The LSO further alleged that the Individual:

- The Individual used THC, cocaine, and a hallucinogenic drug between January 2020 and January 2021 at the request of her then-romantic partner;
- Was diagnosed with Bipolar Mood Disorder by her doctor in 2020.

Ex. 3 at 5. Accordingly, the LSO's security concerns under Guidelines E, H, J, and I are justified.

III. REGULATORY STANDARDS

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

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting her 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.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

The Individual was evaluated by the Psychologist prior to the LSO issuing the Notification Letter. After the evaluation, the Psychologist prepared a report, which the Individual received in April of 2023, concluding that the Individual met the diagnostic criteria for Major Depressive Disorder, Recurrent, Severe; Posttraumatic Stress Disorder (PTSD); Somatic Symptom Disorder, and Unspecified Personality Disorder, with borderline personality features (Cluster B); and Generalized Anxiety Disorder, and dependent personality traits. Ex. 11 at 1. He recommended that the Individual work with a qualified mental health counselor to learn to cope with mood dysregulation, personality issues, and social difficulties, see a psychiatrist to explore psychotropic interventions for mood dysregulation, behavior disturbances, and symptoms of anxiety, seek further medical assessment to rule out any genetic mutations, organic imbalances, or mineral and

vitamin deficiencies, and consider family therapy to learn skills to deal with to interpersonal conflicts. *Id.* at 16.

The Individual testified that, in 2021, her previous counselor had opined that she might have bipolar disorder but was not qualified to provide a diagnosis. Tr. at 19, 21. She informed her primary care doctor of her counselor's opinion; the doctor began prescribing her mood stabilizers. *Id.* at 19–20. The Individual was taking a different medication as of the hearing date, which her doctor had prescribed after performing a genetic test to determine the best medication for the Individual's body. *Id.* at 20–21. The Individual eventually stopped seeing the counselor because the Individual did not feel she was progressing in her treatment. *Id.* at 21–22. As of the hearing date, she was seeing the on-site counselor at her work about once per month. *Id.* at 22, 31. She had worked on identifying triggers with her prescribing nurse practitioner. *Id.* at 30–31. She had learned that she was triggered by abusive relationships, which intensified her PTSD. *Id.*

The Individual testified that she had ingested the active ingredient in marijuana about five times between January and April 2020, that she used cocaine about eight times between May and July 2020, and that she used a hallucinogen once in January 2021. Tr. at 15–16. She testified that she was in an unhealthy relationship at the time and had wanted to do everything her boyfriend did. *Id.* at 17. She described the relationship as abusive. *Id.* at 39. She testified that she was in her early 20s when she met the now-ex boyfriend at church. *Id.* at 39–40. He was significantly older than her and the Individual admitted to being manipulated by him. *Id.* at 40–41. The relationship had lasted about one year, and she had zero contact with that ex-boyfriend after that. *Id.* She had not used any drugs since that relationship and did not intend to use drugs in the future. *Id.* at 40–41, 54.

The Individual testified that her young age and immaturity had played a factor in her getting into an unhealthy relationship. *Id.* at 44. She further testified that she has matured significantly in the intervening years. *Id.* As of the hearing date, the Individual was in a stable, healthy relationship that her family supported and approved of. *Id.* at 45. She also testified that she had been candid with her family and boyfriend about the events of her past relationship, even though she was embarrassed by some of them, and that there were no secrets between her and those in her support system. *Id.* at 53–54.

The Individual testified that she had changed the people she surrounded herself with and had learned to let others support and help her. Tr. at 31–32. She had learned to trust her instincts and question situations that did not seem right to her. *Id.* at 43. She also testified that, since ending her abusive relationship, she had started spending a significant amount of time with her family and could go to her parents for advice and help if needed. *Id.* at 34, 43–44. The Individual had taken steps to reduce her stress generally. *Id.* at 50. She planned weekend activities with her boyfriend and had set boundaries to not respond to non-urgent work messages on weekends. *Id.* When feeling acute stress, she would go for walks to calm herself. *Id.* at 51–52. She would also let her boyfriend know what she was feeling so he could give her extra support. *Id.*

The Individual had engaged in self-harm at various points since she was a teenager, the most recent instance occurring a few months before her evaluation by the Psychologist. Tr. at 24, 28–29. She testified that she had not had any urge to do that recently. *Id.* She also testified that, though she

had told the Psychologist she had experienced suicidal thoughts in the past, she had no suicidal feelings as of the hearing date. *Id.* She had never planned or attempted suicide. *Id.* at 25. She had experienced depression and anxiety in the past, but as of the hearing date, she only experienced quotidian, situational anxiety. *Id.* She attributed this improvement to her mood stabilizer. *Id.* at 26. It had been about a year since she last engaged in self-harm or had suicidal thoughts. *Id.* at 28.

The Individual's prescribing nurse practitioner (the NP) believed the Individual had PTSD, generalized anxiety disorder, and bipolar disorder II. Tr. at 68. He had used short questionnaires to make this determination. *Id.* at 69, 87. He had added an antidepressant to the Individual's medication regimen and testified that, after that, the Individual had shown great improvement in her depression and anxiety according to the questionnaires the Individual completed. *Id.* at 71–74. He gave her a good prognosis, so long as she continued taking her medications as prescribed. *Id.* at 75–76. He testified that the Individual had a stable, normal presentation and that she was able to communicate confidently. *Id.* at 89. The NP did not see any indication that the Individual had a substance abuse disorder. *Id.* at 78.

The Individual's boyfriend described her as hopeful and happy. Tr. at 96. He testified that the Individual had become significantly more confident about seven or eight months before the hearing. *Id.* at 97. He testified that, initially, the Individual had been withdrawn, closed off, and uncomfortable with being touched. *Id.* at 98. He then testified that over the course of the last year, the Individual had opened up emotionally and was “a lot more chipper . . . and not nearly as sad or down as she used to be.” *Id.* The boyfriend testified that he has observed the Individual take her medication as directed every day. *Id.* at 103. He had never heard the Individual express suicidal thoughts and was not aware of any instance of self-harm during the time he had known her. *Id.* at 100. He was also not aware of the Individual using any illegal drug during the time he had known her. *Id.* at 101. The boyfriend described the Individual as truthful and honest. *Id.* at 102.

The Individual's sister testified that the Individual had an even mood, particularly in the preceding two years. Tr. at 106–07. She testified that the Individual had learned to handle her emotions as she matured. *Id.* at 107. She had seen the Individual seek out and maintain healthy relationships since leaving the abusive relationship. *Id.* at 108. The sister was not aware of any suicidal thoughts or self-harm by the Individual. *Id.* She had not seen the Individual use illegal drugs. *Id.* at 109.

The Individual's mother saw the Individual at least two or three times per week. Tr. at 111. She testified that the Individual's mood had been stable, especially in the preceding year. *Id.* at 112. She was not aware of any instances of self-harm or suicidal thoughts by the Individual in recent years. *Id.* at 113. Based on her discussions with the Individual, the mother believed the Individual was relieved to be seeing a therapist and excited to be “moving forward in a positive way.” *Id.* at 114. She testified that the Individual was taking her medications and following her treatment plan; she believed the Individual was committed to following the treatment plan in the future. *Id.* The mother testified that the Individual would be able to come to her for support if she began having emotional difficulties in the future. *Id.* at 115. She was not aware of any recent illegal drug use by the Individual and believed the Individual did not intend to use illegal drugs in the future. *Id.*

The Psychologist testified that the Individual did not manifest sufficient symptoms to be diagnosed with bipolar disorder and explained that his testing was more in depth than the NP's testing. Tr. at

122, 136. He had a positive view of the Individual's current boyfriend and had no concerns about her personal relationships. *Id.* at 125–26. He believed she had learned from her experiences. *Id.* at 125. The Psychologist believed that the Individual was honest and open with her family and boyfriend and that this openness made it less likely that she could be influenced in a negative way. *Id.* at 130–31. He testified that she had been naïve and overly trusting when he first evaluated her, but her judgment had “improved dramatically” since then. *Id.* at 131. He testified that the Individual appeared to be conscientious, stable, and committed to following rules. *Id.* at 135.

The Psychologist testified that the conditions with which he had diagnosed the Individual were readily controlled by treatment provided that the Individual engages with the treatment. Tr. at 132. The Psychologist testified that the Individual had followed his treatment recommendations sufficiently to address his concerns and had demonstrated ongoing compliance with her treatment plan. *Id.* at 126, 133. He approved of the medication regimen the Individual's NP and doctor had prescribed for the Individual, in large part because it better fit his diagnosis than the NP's diagnosis. *Id.* at 127. He gave the Individual a good prognosis so long as she continued taking her medication and attending therapy. *Id.* at 128. The Psychologist testified that there was no indication that the Individual had a substance abuse disorder and that he would be surprised if she used illegal drugs in the future. *Id.* at 134.

V. ANALYSIS

A person who seeks access to classified information enters into a fiduciary relationship with the government predicated upon trust and confidence. This relationship transcends normal duty hours and endures throughout off-duty hours. The government places a high degree of trust and confidence in individuals to whom it grants access authorization. Decisions include, by necessity, consideration of the possible risk that the applicant may deliberately or inadvertently fail to protect or safeguard classified information. Such decisions entail a certain degree of legally permissible extrapolation as to potential, rather than actual, risk of compromise of classified information.

The issue before me is whether the Individual, at the time of the hearing, presents an unacceptable risk to national security and the common defense. I must consider all the evidence, both favorable and unfavorable, in a commonsense manner. “Any doubt concerning personnel being considered for access for national security eligibility will be resolved in favor of the national security.” Adjudicative Guidelines ¶ 2(b). In reaching this decision, I have drawn only those conclusions that are reasonable, logical, and based on the evidence contained in the record. Because of the strong presumption against granting or restoring security clearances, I must deny access authorization if I am not convinced that the LSO's security concerns have been mitigated such that granting the Individual's clearance is not an unacceptable risk to national security.

A. Guideline E

Guideline E concerns may be mitigated if:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17. Mitigating conditions (d), (e), and (g) are applicable.

Regarding condition (d), the Individual took responsibility for her actions from the outset of her clearance investigation process by reporting her illegal drug use. She has taken positive steps to address the Guideline E concerns, including having no contact with her abusive ex-boyfriend, building positive relationships and a support system with her family and her current boyfriend, and starting a treatment plan of medication and therapy in accordance with the Psychologist's recommendations. She has grown considerably in the years since the behavior that gave rise to the Guideline E concerns and is now emotionally stable and more mature. This growth, combined with her treatment and support system, makes it unlikely that the Individual will use illegal drugs or be susceptible to serious manipulation by others in the future.

Regarding conditions (e) and (g), the Individual has no contact with her ex-boyfriend. She has worked through the emotional difficulties she experienced during that relationship and has become a stable adult. She continues to pursue treatment to improve her mental health and well-being and demonstrated a high degree of candor. Each witness, including the DOE Psychologist believed she was trustworthy.

Accordingly, I find that the concerns under Guideline E are mitigated.

B. Guideline H

Conditions that could mitigate Guideline H security concerns include:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or good judgment;
- (b) The individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) Disassociation from drug-using associates and contacts;
 - (2) Changing or avoiding the environment where drugs were used; and
 - (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) Satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26. Mitigating condition (b) applies. I note that conditions (c) and (d) are not applicable because no prescription drugs were abused, no drug treatment was recommended, and no substance abuse disorder was diagnosed.

Regarding condition (b), the Individual took responsibility for her drug involvement by being honest about it through every step of the security clearance application process. She has no contact with the ex-boyfriend with whom she used illegal drugs and has reformed her lifestyle to revolve around stable relationships with her family and boyfriend, all of whom do not use illegal drugs. Additionally, the evidence indicates that she has not used any illegal drug in over two years. While there is not a signed statement of intent in the record, the Individual testified under oath that she will not use illegal drugs in the future. Moreover, all witnesses, including the DOE Psychologist, believed that the Individual will not use illegal drugs in the future. Accordingly, I find that the Individual has mitigated the concerns under Guideline H.

C. Guideline I

Conditions that can mitigate 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) Recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government 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;
- (e) There is no indication of a current problem.

Adjudicative Guidelines at ¶ 29. Conditions (a), (b), and (c) apply.

Regarding condition (a), the Psychologist testified that the Individual's conditions, taken as a whole, are readily controlled with treatment. The NP testified that the Individual has made significant improvements in her levels of anxiety and depression in the months since starting her current medication regimen and the Individual also expressed feeling hopeful, happier and more stable since then. The Individual is careful to take her medications every day and has her boyfriend to hold her accountable. She also attends therapy and sees the NP regularly, as recommended.

Regarding condition (b), the Individual began seeing the NP in response to receiving the Psychologist's treatment recommendations. She also continues to attend therapy and has changed providers to ensure that she gets the most out of those sessions that she can. Both the NP and Psychologist gave the Individual a good prognosis. Similarly, regarding condition (c), the NP and Psychologist believed that her current conditions are well-controlled and that she had sufficient support systems in place to prevent or manage future issues in appropriate ways.

Accordingly, I find that the Guideline I security concerns are mitigated.

D. Guideline J

Conditions that may mitigate Guideline J include:

- (a) So much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and

(d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32. Conditions (d) applies.

Regarding condition (d), the Individual has not used illegal drugs nor been in contact with her ex-boyfriend for two years, has remained employed, and has complied with the Psychologist's recommendations for treating the psychological conditions that contributed to her decision to use illegal drugs. There is no evidence that she has engaged in other criminal activity during in the years since her illegal drug use, and she has taken action to help address the psychological conditions that may have contributed to her past decision to engage in illegal drug use. Furthermore, all witnesses, including the NP and Psychologist, believed that the Individual would not use drugs in the future. The NP and Psychologist did not find evidence of any substance abuse disorder.

Accordingly, I find that the Individual has mitigated the concerns under Guideline J.

VI. CONCLUSION

Upon consideration of the entire record in this case, I find that there was evidence that raised concerns regarding the Individual's eligibility for access authorization under Guidelines E, H, I, and J of the Adjudicative Guidelines. I further find that the Individual has succeeded in fully resolving those concerns. Therefore, I conclude that granting DOE access authorization to the Individual "will not endanger the common defense and security and is clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Accordingly, I find that the DOE should grant access authorization to the Individual.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Kristin L. Martin
Administrative Judge
Office of Hearings and Appeals