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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: April 30, 2024) Case No.: PSH-24-0112
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Issued: September 13, 2024

Administrative Judge Decision

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXX (hereinafter referred to as “the Individual”) to hold an 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 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 granted.

I. Background

The present case concerns an Individual who, at the Local Security Organization’s (LSO) request, was evaluated by a DOE-contracted psychiatrist (Psychiatrist), who diagnosed the Individual with Alcohol Use Disorder (AUD), Mild. The Individual has: acknowledged her AUD, discontinued her use of alcohol, become actively engaged in Alcoholics Anonymous (AA), obtained an AA sponsor, begun working the AA’s Twelve-Step program (TSP), and engaged in individual counseling. This decision considers whether the Individual’s efforts to address her AUD have been sufficiently effective to mitigate the security concerns raised by her AUD.

The Psychiatrist conducted his clinical interview (CI) of the Individual on December 8, 2023. Exhibit (Ex.) 7 at 47. The Psychiatrist also reviewed the Individual’s personnel security file, administered the Personality Assessment Inventory (PAI) to the Individual, administered the Shipley-2 (a rapid IQ test) to her, had her undergo a urine drug screening test, and had her undergo a Phosphatidylethanol (PEth) laboratory test (to detect alcohol consumption). Ex. 7 at 47, 50. The Individual’s PEth test was positive at a level of 57 ng/mL, indicating that she had been using

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.

alcohol during the previous four weeks.² Ex. 7 at 73. Her Shipley score indicated that she was in the 75th percentile, but the Psychiatrist opined this score underestimated the Individual's intelligence. Ex. 7 at 51. Her drug screening test was negative. Ex. 7 at 50. The PAI Clinical Profile was entirely within normal limits. Ex. 7 at 51.

The Psychiatrist issued a report of his findings (the Report) on December 26, 2023, in which he found that the Individual met the criteria for Alcohol Use Disorder (AUD), Mild, in early remission, set forth in the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition – Text Revision* (DSM-5-TR).³ Ex. 7 at 55–57. The Psychologist also noted that the Individual was engaging in heavy alcohol consumption, consuming more than one drink a day each day of the week. Ex. 7 at 56. He therefore found that she was not reformed or rehabilitated because she continued to use alcohol. Ex. 7 at 56. The Psychiatrist opined that, to show that she was reformed or rehabilitated, the Individual should: (1) abstain from using alcohol for six months, (2) attend two AA or SMART Recovery⁴ meetings each week, (3) obtain a sponsor, (4) engage in AA's TSP or similar program, and (6) take PEth tests, with negative results, every other month. Ex. 7 at 56.

After receiving this information, the LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing her that it received derogatory information that created a substantial doubt regarding her eligibility to hold a security clearance and that she was entitled to a hearing before an Administrative Judge to resolve the security concerns. 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), I took testimony from the Individual, her spouse (Spouse), her AA sponsor (Sponsor), her treating psychologist (Psychologist), and the Psychiatrist. See Transcript of Hearing, OHA Case No. PSH-24-0112 (hereinafter cited as "Tr."). The DOE Counsel submitted ten exhibits, marked as Exhibits 1 through 10. The Individual submitted the following four exhibits, marked as Exhibits A through D:

Updated Exhibit A consists of four laboratory reports indicating that PEth tests administered to the Individual on April 4, 2024, June 14, 2024, July 12, 2024, and August 14, 2024, were negative.

Exhibit B consists of a series of emails from the Individual's AA group documenting her presence at thirty-seven AA meetings conducted between March 29, 2024, and July 30, 2024.

² The laboratory report for the PEth test indicates that "PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption," but cautioned that "the Center for Substance Abuse Treatment (CSAT) advises caution in interpretation and use of biomarkers alone to assess alcohol use. Results should be interpreted in the context of all available clinical and behavioral information." Ex. 7 at 51.

³ He also diagnosed the Individual with Attention-Deficit/Hyperactivity Disorder and Persistent Depressive Disorder. Ex. 10 at 55. Neither of these disorders were cited as security concerns by the LSO.

⁴ "SMART Recovery" is also known as Self Management and Recovery Training. Its website describes SMART Recovery as "an evidenced-informed recovery method grounded in Rational Emotive Behavioral Therapy and Cognitive Behavioral Therapy, that supports people with substance dependencies or problem behaviors" to: (1) Build and maintain motivation; (2) Cope with urges and cravings; (3) Manage thoughts, feelings and behaviors; and (4) Live a balanced life. <https://smartrecovery.org/what-is-smart-recovery>.

Exhibit C consists of two email messages documenting the Individual's participation in a SMART Recovery meeting on March 29, 2024, and an AA meeting on April 4, 2024.

Exhibit D is a letter, dated August 5, 2024, to Whom It May Concern from the Psychologist documenting the Individual's attendance at ten individual counseling sessions from May 9, 2024, to August 1, 2024.

II. The Summary of Security Concerns (SSC)

The Summary of Security Concerns (SSC) attached to the Notification Letter informed the Individual that information in the possession of the DOE created substantial doubt concerning her eligibility for a security clearance under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. Under Guideline G, the LSO cites the Psychiatrist's conclusion that the Individual met sufficient criteria for a diagnosis of AUD, Mild, under the DSM-5-TR and the Individual's pattern of heavy alcohol consumption. This information adequately justifies the LSO's invocation of Guideline G. Under Guideline G, "[e]xcessive 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. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "diagnosis by a duly qualified medical or mental health professional (e.g. . . . clinical Psychiatrist . . .) of alcohol use disorder." Adjudicative Guidelines at ¶ 22(d).

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 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 their 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.

IV. Hearing Testimony

At the hearing, the Psychologist testified that she is a clinical psychologist who has been treating the Individual since May 1, 2024. Tr. at 13, 16. She worked with the Individual to help her acquire healthy coping skills and to address her alcohol issues. Tr. at 13, 15–16. The Individual reported to her that she had been using alcohol to cope with stress and wished to develop healthier ways to cope with her stress. Tr. at 14–15. The Psychologist agrees with the Psychiatrist’s conclusions outlined in his Report and his treatment recommendations. Tr. at 15, 22. The Individual has been consistently attending her appointments and has been implementing the skills and strategies taught to her in her treatment. Tr. at 16. The Psychologist and Individual have been using cognitive behavioral therapy and eye movement desensitization reprocessing to address the Individual’s AUD and mental health concerns. Tr. at 16. The Individual informed her that she has been sober since she began treatment with the Psychologist. Tr. at 16. The Psychologist is unaware of any relapses by the Individual and believes the Individual’s treatment has been effective. Tr. at 15, 18, 22–23. The Psychologist noted that the Individual’s alcohol use and depression were rooted in her previous unhappy work environment and her inability to spend time with her family. Tr. at 19. These issues have been mitigated by the Individual’s obtaining a new job with a better working environment and an opportunity to spend more time with her family. Tr. at 19. As a result, the Individual’s family dynamic has turned positive. Tr. at 24. The Individual stated that she plans to continue her individual counseling indefinitely. Tr. at 20. The Psychologist opined that the Individual’s risk of relapse is “very minimal” and that her prognosis is “very good.” Tr. at 21–22. She noted that the Individual has an AA sponsor and is working the TSP. Tr. at 22. She recommends lifetime sobriety for the Individual. Tr. at 22. The Individual has expressed a commitment to lifetime sobriety to the Psychologist. Tr. at 22, 25. The Individual’s commitment to her sobriety appears to be internally motivated. Tr. at 24. The Individual has been insightful, very honest, and very humble during her therapy. Tr. at 24.

The Sponsor testified at the hearing that she has been the Individual’s AA sponsor for six months. Tr. at 29. She often attends the same AA meetings as the Individual. Tr. at 30. She testified that the Individual has made “a really incredible transformation in terms of her sobriety.” Tr. at 30. The Individual used to be quiet and reserved during meetings, but now fully participates in the group and does not hesitate to share. Tr. at 30–31. The Individual is very committed to working the TSP and is currently working on the sixth and seventh steps. Tr. at 31–32, 38. The Individual’s sobriety date is February 20, 2024. Tr. at 31–32. The Sponsor is not aware of any relapses by the Individual. Tr. at 35. The Individual has been extremely consistent in her communication. Tr. at 32. The Sponsor has seen the Individual make progress while exhibiting honesty and accountability. Tr. at 33. The Individual attends individual therapy, which has benefited her. Tr. at 34–35. The Sponsor is confident that the Individual can continue remaining sober. Tr. at 37.

The Spouse testified at the hearing that he has been married to the Individual for twenty years. Tr. at 42. He testified that the Individual does not use alcohol. Tr. at 44. She last used alcohol in February 2024. Tr. at 44. Since the Individual stopped using alcohol “she can tackle problems more directly and overcome things that maybe she wouldn’t have been able to overcome in the past.” Tr. at 46. The Individual is now “able to take a step back, take herself out of the situation and talk through it, either with myself or our daughter, and move on to . . . the next thing without getting hung up on it, or able to let it go, if something upsets her.” Tr. at 47. He testified that the Individual’s former employment required frequent travel, leaving him to be a single father and

creating stress on their family and relationship. Tr. at 47. The Individual's previous employment also subjected her to a toxic work environment. Tr. at 47–48. He believes that the stress from her previous job contributed to her problematic alcohol use. Tr. at 49. As soon as the Individual left that job, she began to change, “her attitude changed, her outlook on life changed, her everything took a step in the right direction from that moment on.” Tr. at 53. Her sobriety has had a similar effect. Tr. at 53. The Individual attends AA meetings, has a sponsor, and sees a psychologist. Tr. at 49. The Spouse testified that the Individual's therapy has been beneficial stating, “she's been able to get some new coping mechanisms, some new tools in the toolbox, so to speak, and she's been able to implement those with a good degree of success, I would say.” Tr. at 50. The Individual informed him that she intends to stay sober for the rest of her life. Tr. at 50. She informed him that she plans to continue therapy and AA. Tr. at 53. The Individual quit alcohol “cold turkey” and has not relapsed. Tr. at 57.

The Individual testified that she decided to stop drinking and to find a new job when she was admitted for psychiatric observation at the Spouse's request in January 2023. Tr. at 63. She is much happier at her new job. Tr. at 65. She last consumed alcohol on February 20, 2024. Tr. at 66. She stopped using alcohol after she read the Psychologist's Report. Tr. at 66. The Individual testified: “I do recognize that I was often drinking for the wrong reasons, that it was a coping mechanism. I was drinking to numb and avoid.” Tr. at 67. Abstaining from alcohol has made her “less reactive” and more even keeled and has allowed her to sleep better. Tr. at 68. She has also lost weight. Tr. at 68. She has found a sponsor and has dedicated herself “full force into this whole sobriety thing.” Tr. at 69. Abstaining from alcohol and therapy has made her “overall happier.” Tr. at 69. She tries to attend at least two AA meetings each week. Tr. at 72. She enjoys AA meetings. Tr. at 73. She intends to remain sober “forever” and to continue attending AA meetings. Tr. at 73, 77. She reached this decision after working with the Sponsor. Tr. at 78. She realized that using alcohol just made her depressed and gain weight. Tr. at 78. Most of her work with the Psychologist addresses her mental health issues. Tr. at 74. She intends to continue working with the Psychologist for another year or two. Tr. at 75. The Psychiatrist's Report led her to start attending AA and to seek therapy. Tr. at 75–76. She recently completed step five of the TSP and began working on steps six and seven. Tr. at 82. She described steps four and five as “super cathartic.” Tr. at 83.

The Psychiatrist testified after observing the testimony of the other witnesses. He testified he recommended that the Individual undergo PEth tests every other month rather than monthly because she has a “mild alcohol disorder” and “had demonstrated significant awareness of a need to change her behavior” when he had evaluated her. Tr. at 88. He thought that the Individual was “very conscientious” noting that they had “an especially good evaluative alliance,” and that the Individual “is emotionally honest.” Tr. at 88, 91. She has fully complied with his recommendations. Tr. at 88–89. He noted that the Individual has expressed ongoing benefit from her AA participation. Tr. at 89. He testified that the Individual is now in early remission and has been alcohol-free for six months and is on her way to sustained remission. Tr. at 90. The Psychiatrist opined that the Individual is now rehabilitated. Tr. at 91. She has stopped using alcohol, she has a strong support system including the Spouse, the Sponsor, the Psychologist, and her AA group, and she has “developed brand new coping mechanisms that don't require alcohol.” Tr. at 91. He assessed her likelihood of relapse as “low.” Tr. at 91. He described the Individual's efforts as “very conscientious and quite commendable” noting that she has demonstrated “a lot of

courage and resilience and willingness to face whatever comes along, without alcohol, and that's very, very positive for her to remain sober." Tr. at 92.

V. Analysis

The Individual claims, and the record supports, that at the time of the hearing, she had abstained from alcohol use for six months. Therefore, she has clearly established a pattern of abstinence. In addition, the Individual has completely complied with the Psychiatrist's treatment recommendations. The hearing testimony of the Individual, her Sponsor, the Spouse, the Psychologist, and the Psychiatrist have convinced me that the Individual fully understands the effect that alcohol has had on her life and the importance of maintaining her sobriety. Most importantly, the Individual's testimony, and that of the other witnesses at the hearing, has convinced me that the Individual is fully committed to maintaining her sobriety and has acquired the tools and support system to do so.

The Adjudicative Guidelines set forth four conditions that may mitigate security concerns under Guideline G. Two of the four mitigating conditions are present in the instant case. First, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if "[t]he 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." Adjudicative Guidelines at ¶ 23(b). In the present case, the Individual has fully acknowledged the extent of her alcohol problem, has taken the appropriate actions to overcome this problem, such as attending individual counseling and AA, and has demonstrated a clear and established pattern of abstinence. Accordingly, I find that the Individual has satisfied the mitigating condition set forth at ¶ 23(b).

Second, the Adjudicative Guidelines provide that an individual may mitigate security concerns under Guideline G if "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." Adjudicative Guidelines at ¶ 23(c). In the present case, the Individual is engaged in individual substance abuse counseling, and is regularly attending AA. Moreover, the record shows that these programs have been highly effective since the Individual has been abstaining from alcohol use for six months and intends to continue doing so. Accordingly, I find the Individual has satisfied the mitigating condition set forth at ¶ 23(c).

I therefore find that the Individual has resolved the security concerns raised under Guideline G by her AUD diagnosis and pattern of heavy alcohol consumption by establishing the presence of two mitigating conditions set forth at Guideline G.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G. After considering all the evidence, both favorable and unfavorable, in a commonsense manner, I find that the Individual has resolved the security concerns raised under Guideline G. Accordingly, the Individual has demonstrated that granting her security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, the

Individual's security clearance should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine
Administrative Judge
Office of Hearings and Appeals