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United States Department of Energy
Office of Hearings and Appeals

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| In the Matter of Personnel Security Hearing | ) | |
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| Filing Date: March 27, 2015 | ) | Case No.: PSH-15-0022 |
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Issued: August 7, 2015

**Administrative Judge Decision**

Robert B. Palmer, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXX (hereinafter referred to as "the individual") for access authorization under the regulations set forth at 10 C.F.R. Part 710, entitled "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." [1] For the reasons set forth below, I conclude that the individual's security clearance should not be restored at this time. [2]

## I. BACKGROUND

The following facts are undisputed. The individual has been a Department of Energy (DOE) employee since 1990, and was granted a security clearance in connection with that employment. She has a history of mental illness, which has affected her both prior to, and during her tenure with the DOE. She first sought psychiatric help in the early 1980s, while enrolled in an advanced degree program at a prestigious university. At that time, she began to have paranoid delusions that ethnic groups were trying to destroy her career. The individual also believed that people

[1] An access authorization is an administrative determination that an individual is eligible for access to classified matter or special nuclear material. 10 C.F.R. § 710.5. Such authorization will also be referred to in this Decision as a security clearance.

[2] Decisions issued by the Office of Hearings and Appeals (OHA) are available on the OHA website located at http://www.oha.doe.gov . The text of a cited decision may be accessed by entering the case number of the decision in the search engine located at http://www.oha.doe.gov/search.htm.

were trying to poison her food, and that there were cameras in her home. She experienced physical symptoms of numbness and difficulty speaking. In 1983, her symptoms began affecting her performance at the job that she held while pursuing the advanced degree. She confronted several co-workers because of her paranoid delusions.
In the spring of that year, the individual sought medical treatment for symptoms of numbness and tingling in her extremities. No organic cause for these symptoms could be identified, and the individual was referred to a psychiatrist. The psychiatrist observed symptoms of paranoia, including her beliefs that she was being watched by cameras in her apartment, that her telephone was tapped, that her food was being tampered with, and that people at work were taking her paperwork and stealing her medicine. He prescribed an anti-psychotic drug for the individual, and her symptoms improved dramatically over a period of several months. She was eventually diagnosed as being schizophrenic.

In 1985, the individual stopped taking the anti-psychotic without medical approval because of the medication's side effects. Her paranoia returned within a couple of months, and she was eventually placed back on the drug. In 1986, the individual experienced symptoms of depression, and was also prescribed an anti-depressant. Later that year, the individual stopped taking the anti-psychotic again, but resumed when her symptoms returned. In the spring of 1987, she experienced mild symptoms of paranoia, and dosage of the anti-psychotic medication was doubled. In 1989, her medication was changed to another anti-psychotic drug because of the side effects of the previous medication. Nevertheless, in 1990, her psychiatrist noted that the individual still had paranoid symptoms, which included her beliefs that her home was bugged, that people were talking about her, and that she was going to be fired from her job. When her psychiatrist was interviewed by OPM investigators, he said that the individual's condition was stable and her prognosis fine if she continued taking her medication.

In 1995, a different psychiatrist noted that the individual felt paranoid when she was extremely anxious. These paranoid symptoms occurred once or twice a month and were generally relieved when she took an anti-anxiety medication. She noted that the individual's history was mostly consistent with a diagnosis of schizophrenia, although she had not experienced any deterioration in function, which would be expected with such a diagnosis. From 1996 through 1998, the individual continued on her anti-psychotic medications, but she continued to suffer from delusions of very mild to moderate intensity, including feelings that people were talking negatively about her and conspiring against her, that she was under surveillance by hidden video cameras, that someone had been in her house, that people could read her mind and had tampered with her medication, and that people may be trying to harm her job performance.

In 1999, the individual was referred to a DOE consultant psychiatrist for an agency-sponsored evaluation. In his report, the DOE consultant psychiatrist diagnosed her as suffering from Delusional Disorder, Persecutory Type. However, he concluded that the individual did not suffer from an illness or mental condition that causes, or could cause, a significant defect in her judgment or reliability. He based this conclusion on his finding that since she had been on medication and had developed insight into her illness, she had never accused anybody of anything, and on his finding that there was no other evidence of any defect in her judgment and reliability.

In 2000, the individual's psychiatrist diagnosed her as suffering from schizoaffective disorder, and changed her antipsychotic medication to Risperdal, at a dosage of 0.5 mg. per day. The record does not indicate any significant paranoid delusions or any other conditions that would raise doubts as to her judgment or reliability from 2000 until 2014. In 2014, the individual accused two co-workers of stealing her medications, tampering with the food that she brought to her office for lunch, and taking paperwork from her desk. She further accused her management of covering the incidents up. A formal investigation into the individual's accusations was conducted, and the investigator was not able to develop any credible evidence that the two co-workers stole the individual's medications, tampered with her food, or otherwise harassed her in any way. He also noted the individual's "long history of delusional behavior and making unfounded accusations." DOE Exhibit (Ex.) 7 at 5.

Given the individual's history, these accusations raised security concerns, and the Local Security Office (LSO) summoned her for an interview with a personnel security specialist. After this Personnel Security Interview (PSI) failed to adequately address these concerns, the LSO referred the individual to a second DOE consultant psychiatrist (hereinafter referred to as "the DOE psychiatrist") for another agency-sponsored evaluation. After reviewing the DOE psychiatrist's report and the individual's personnel security file as a whole, the LSO determined that derogatory information existed that cast into doubt the individual's eligibility for access authorization. It informed the individual of this determination in a letter that set forth the DOE's security concerns and the reasons for those concerns. I will hereinafter refer to this letter as the Notification Letter. The Notification Letter also informed the individual that she was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt concerning her eligibility for access authorization.

The individual requested a hearing on this matter. The LSO forwarded this request to the Office of Hearings and Appeals, and I was appointed the Administrative Judge. The DOE introduced nine exhibits into the record of this proceeding, and presented the testimony of the DOE psychiatrist. The individual introduced 11 exhibits and presented the testimony of three witnesses, in addition to testifying herself.

## II. THE NOTIFICATION LETTER AND THE DOE'S SECURITY CONCERNS

As indicated above, the Notification Letter included a statement of derogatory information that created a substantial doubt as to the individual's eligibility to hold a clearance. This information pertains to paragraph (h) of the criteria for eligibility for access to classified matter or special nuclear material set forth at 10 C.F.R. § 710.8.

Under criterion (h), information is derogatory if it indicates that an individual has an illness or mental condition which, in the opinion of a psychiatrist causes, or may cause, a significant defect in the individual's judgment or reliability.10 C.F.R. § 710.8(h). As support for this criterion, the Letter cites the diagnosis of the DOE psychiatrist that the individual suffers from Delusional Disorder, Persecutory Type, Multiple Episodes, Currently in Acute Episode, and his conclusion that that this disorder causes, or may cause, a significant defect in her judgment or reliability.

This circumstance adequately justifies the DOE's invocation of criterion (h), and raises significant security concerns. The individual has been diagnosed, by a duly qualified mental health professional retained by the U.S. Government, with a mental condition that could cause a significant defect in her judgment or reliability. *See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, The White House (December 19, 2005), Guideline I.*

## III. REGULATORY STANDARDS

The criteria for determining eligibility for security clearances set forth at 10 C.F.R. Part 710 dictate that in these proceedings, an Administrative Judge must undertake a careful review of all of the relevant facts and circumstances, and make a "common-sense judgment . . . after consideration of all relevant information." 10 C.F.R. § 710.7(a). I must therefore consider all information, favorable or unfavorable, that has a bearing on the question of whether granting or restoring a security clearance would compromise national security concerns. Specifically, the regulations compel me to consider the nature, extent, and seriousness of the individual's conduct; the circumstances surrounding the conduct; the frequency and recency of the conduct; the age and maturity of the individual at the time of the conduct; the absence or presence of rehabilitation or reformation and other pertinent behavioral changes; the likelihood of continuation or recurrence of the conduct; and any other relevant and material factors. 10 C.F.R. § 710.7(c).

A DOE administrative proceeding under 10 C.F.R. Part 710 is "for the purpose of affording the individual an opportunity of supporting his eligibility for access authorization." 10 C.F.R. § 710.21(b)(6). Once the DOE has made a showing of derogatory information raising security concerns, the burden is on the individual to produce evidence sufficient 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). *See Personnel Security Hearing*, Case No. VSO-0013, 24 DOE ¶ 82,752 at 85,511 (1995) (*affirmed* by OSA, 1996), and cases cited therein. The regulations further instruct me to resolve any doubts concerning the individual's eligibility for access authorization in favor of the national security. 10 C.F.R. § 710.7(a).

## IV. FINDINGS OF FACT AND ANALYSIS

### A. The Hearing Testimony

At the hearing the individual attempted to demonstrate, through her own testimony and that of her psychologist and two co-workers, that her mental illness is being effectively managed, and that she is not currently experiencing a significant defect in her judgment and reliability. The individual testified that she no longer believes that her co-workers were stealing her medications, tampering with her food, or taking her paperwork, or that management was covering these activities up. She explained that these were "misperception[s] on [her] part" that "required a medication adjustment." Hearing Transcript (Tr.) at 21-22. After her security clearance was suspended, the individual was evaluated by a psychologist, who informed her that she had "some residual paranoia," and suggested that her medication dosage be increased. The individual's

psychologist also suggested that she begin seeing another psychologist on a regular basis so that that psychologist could give her feedback on whether any troublesome perceptions that the individual was experiencing could be delusional in nature. Tr. at 27-28, 123. Approximately three weeks prior to the hearing, the individual met with her psychiatrist, who doubled her dosage of Risperdal. Tr. at 28. She added that she also takes Oxazepam for anxiety, that she has taken these drugs in strict accordance with her doctors' instructions, and that from 2000 to 2014, there was never any indication that her drug regimen wasn't working. Tr. at 30-31. The individual has also begun seeing the other psychologist, because "it wasn't clear to her that [she] was having misperceptions, and seeing someone on a more regular basis would give [her] that feedback." Tr. at 41. As of the date of the hearing, she had already seen the other psychologist once, and the individual testified that she intends to continue seeing her. Tr. at 42. The individual concluded that she had not had any further delusions since the increase in her medication. Tr. at 89.

The individual's psychologist also testified. She stated that she agreed with the DOE psychologist's diagnosis, Tr. at 126, and that she believed it important for the individual to have a "check and balance" to detect any possible future delusions. Tr. at 119. She further stated that she was optimistic about an increase in medication helping the individual because she has been compliant with the treatment recommended by her physicians. Tr. at 120. If the individual was seeing a psychologist on a regular basis and that psychologist had a signed release permitting him or her to talk to the individual's supervisor if necessary, the individual's psychologist suggested, the psychologist could get feedback on the individual's circumstances that would help the psychologist manage the individual's anxiety better. Tr. at 121. The individual's psychologist's treatment plan for the individual consists of continued medication, and regular consultations with the other psychologist. Tr. at 123. She did not offer a prognosis for the individual, but she said that the individual's "transparency about her issues" and "response to medication" were positive factors. Tr. at 124. Both of the individual's co-workers testified that they had not witnessed any signs of bizarre or paranoid behavior, Tr. at 100, 111, and one of them testified that she had a favorable impression of the individual' judgment, reliability, and trustworthiness. Tr. at 99. The individual's exhibits include uniformly positive performance appraisals, submitted to document her exercise of good judgement and reliability during her tenure with the DOE.

The DOE psychiatrist discussed the individual's treatment plan during his testimony. He said that the increase in her dosage of Risperdal from 0.5 mg. to 1 mg was a positive step, but that both dosages were "quite low." Tr. at 143, and that "I don't know if I expect to see a dramatic change." Tr. at 144. With regard to the individual's performance at work, the DOE psychiatrist testified that high functioning was typical when someone with a delusional disorder was not in an active delusional state. Tr. at 150-151. The course of the individual's disorder is also typical, he added, in that she has had "multiple episodes of delusions . . . flaring up, generally when she's stressed." Tr. at 151. Regarding the second part of the treatment plan, regular consultations with a psychologist, the DOE psychiatrist opined that it should be helpful, but he expressed doubts that it would serve as a sufficient "safety net" for the individual. These doubts were based on the fact that the individual had the delusional episode in 2014 despite having "at least adequate access to mental health professionals." Tr. at 152-153. His prognosis was that she would be vulnerable to having similar episodes in the future, "even on medications, if significant stress

comes." Tr. at 153. These episodes would have a potentially very serious impact on the individual's judgment and reliability. Tr. at 154-155.

**B. Administrative Judge's Determination**

After reviewing this testimony and all of the exhibits submitted by the parties, I find there to be an unacceptable risk that the individual will suffer future delusional episodes, and that those episodes will cause substantial deficits in her judgment and reliability. Although the individual's psychologist was hopeful about the efficacy of her treatment plan, she would not offer a prognosis, and I am not convinced that the plan will prevent future delusional episodes, or provide adequate safeguards when such episodes occur.

Regarding the individual's medication, the DOE psychiatrist testified that both the 0.5 mg. and 1.0 mg. dosages of Risperdal were low, and that he was not convinced that the increased dosage would make a dramatic difference. Moreover, the record in this matter indicates that the individual was prescribed a dosage of 1.0 mg. of Risperdal in 2006. *See* DOE Ex. 9 at 67. This is significant for two reasons. First, the increase in dosage from the 0.5 mg. prescribed in 2000 to the 1.0 mg. suggests that, contrary to her testimony, the lower dosage was not working, and that she was experiencing some degree of paranoia. Second, the subsequent lowering of her dosage from 1.0 mg. to the 0.5 mg. that she was taking at the time of the 2014 episode is part of a pattern of the individual changing her medications or ceasing them altogether, sometimes without medical approval. This is, in all likelihood, due to the side effects of these medications, which can be severe. Despite the testimony of the individual's psychologist that the individual has been compliant with treatment, this history suggests that she could, in the future, seek to change her medication regimen again, with unforeseeable consequences for her mental and emotional health. Finally, the DOE psychiatrist testified that even if medicated, the individual would continue to be vulnerable to delusional episodes in the future.

Concerning the individual's regular consultations with a psychologist, this would only assist in identifying future delusions if the individual was able to perceive that some of her thoughts might not be adequately grounded in reality. The 2014 delusions and their aftermath suggest that this would not be easy for the individual. She persisted in believing that her medications had been stolen and her files and food tampered with even after the investigation revealed no wrongdoing, after the PSI, and after the DOE psychiatrist raised doubts about her beliefs during his evaluation. The individual's insight into her condition was poor, and I am not convinced that the regular psychological consults would serve as an adequate safeguard against future delusional episodes. For these reasons, I conclude that the individual has not adequately addressed the DOE's security concerns under criterion (h).

**V. CONCLUSION**

I find that the individual has failed to mitigate the DOE's concerns under criterion (h). Consequently, she has failed to convince me that restoring her access authorization would not endanger the common defense and would be clearly consistent with the national interest. Accordingly, I find that the DOE should not restore the individual's security clearance at this

time. Review of this decision by an Appeal Panel is available under the procedures set forth at 10 C.F.R. § 710.28.

Robert B. Palmer
Administrative Judge
Office of Hearings and Appeals

Date: August 7, 2015