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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: March 27, 2015)

Case No.: PSH-15-0024

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Issued: July 10, 2015

Administrative Judge Decision

Robert B. Palmer, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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

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>.

The individual is employed by a Department of Energy (DOE) contractor, and was issued a security clearance in connection with that employment. In September 2014, the local security office (LSO) summoned the individual for an interview with a personnel security specialist. This Personnel Security Interview (PSI) concerned the individual's on-going financial difficulties and his compliance with the requirements of his probation stemming from a previous arrest. After reviewing this PSI 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 he was entitled to a hearing before an Administrative Judge in order to resolve the substantial doubt concerning his 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 97 exhibits into the record of this proceeding and presented the testimony of six witnesses. The individual introduced two exhibits and presented the testimony of two witnesses, in addition to testifying on his own behalf.

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

As indicated above, the LSO concluded in the Notification Letter that derogatory information exists that creates a substantial doubt as to the individual's eligibility to hold a security clearance. That information is set forth in the Summary of Security Concerns (SSC) that was appended to the Notification Letter, and it pertains to paragraph (1) of the criteria for eligibility for access to classified matter or special nuclear material set forth at 10 C.F.R. § 710.8.

Criterion (1) refers to information indicating that the individual has engaged in unusual conduct or is subject to circumstances which tend to show that he is not honest, reliable or trustworthy; or which furnishes reason to believe that he may be subject to pressure, coercion, exploitation or duress which may cause him to act contrary to the best interests of national security. Such conduct includes, but is not limited to, illegal behavior, a pattern of financial irresponsibility, and violation of any commitment or promise upon which the DOE previously relied to favorably resolve an issue of access authorization eligibility. The SSC refers to five separate concerns under this criterion.

The first concern is the individual's past illegal conduct. As support for this concern, the SSC cites his arrests in 2012 for DUI, Failure to Maintain Lane, and Open Container, and in 2013 for two counts of Second Degree Assault and Battery. According to the SSC, the 2012 charges were reduced to Reckless Driving and Open Container and the individual was sentenced to 40 hours of community service, 48 months of probation, and was fined \$1,500. The 2013 arrest resulted in the individual entering into a pre-trial intervention (PTI) program and receiving an additional 40 hours of community service.

The second concern is the individual's alleged failure to comply with the requirements of his Reckless Driving probation, with court orders, and with other court-related obligations. In this

regard, the SSC cites the individual's (i) 2012 arrest for Contempt of Family Court; (ii) 2014 violation of probation by failing to pay court-ordered fines and failing to report to his probation officer; (iii) 2014 failure to appear in court for his violation of probation hearing; and (iv) failure to complete his court-ordered community service within specified time limits.

The third concern is the individual's provision of allegedly contradictory or misleading information about the performance and completion of his community service and other court requirements. Specifically, the SSC refers to (i) the individual's claim during his September 2014 PSI that he did not complete his community service in a timely manner and had to leave work early because of back and neck injuries that he suffered during a 2013 auto accident despite the fact that he did not complain of back injuries to the police at the time of the accident and hospital examinations at the time revealed no such injuries; (ii) the individual's explanation that he could not perform his community service for the Reckless Driving conviction on weekends because he had custody of his children on those days even though he was able to perform the community service for the Assault and Battery PTI on weekends; (iii) the individual's admission during his probation violation hearing that he gave precedence to completing his Assault and Battery community service over his DUI community service because the former charge had more serious ramifications regarding his ability to carry a gun for his job than the latter charge; and (iv) the individual's false statement during his 2014 OPM interview that he had completed his DUI community service. During his September 2014 PSI, the individual explained that at that time he was referring to his Assault and Battery community service, even though the OPM investigator clearly indicated that he was referring to the DUI community service. The SSC goes on to allege that the individual failed to adhere to his employer's and the DOE's reporting requirements by keeping them updated on the status of his probation.

Fourth, the SSC cites the individual's lengthy history of financial difficulties. It refers to 16 credit reports obtained by the LSO during the years 1999 through 2014. Each of those reports reflects delinquent debt on the part of the individual, in amounts ranging from \$1,596 to \$19,381. The SSC also states that the individual has had several foreclosures and vehicle repossessions, a wage garnishment, and at least one loan taken out against his 401(k) during this period, and has demonstrated frivolous or irresponsible spending with no evidence of willingness or intent to pay his debts.

Finally, the SSC alleges that the individual has repeatedly failed to honor his verbal commitments to the DOE regarding his finances and personal conduct. It lists nine occasions on which the individual made commitments concerning these subjects to the DOE during various PSIs through the years, and then failed to keep those commitments.

These circumstances adequately justify the DOE's invocation of criterion (l), and raise significant security concerns. 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 information. Failure or inability to live within one's means, satisfy debts, and meet financial obligations may indicate poor self-control, lack of judgment, or unwillingness to abide by rules and regulations, all of which can also raise questions about an individual's reliability, trustworthiness, and ability to protect classified information. Finally, illegal activity, by its very nature, calls into question a

person's ability or willingness to comply with laws, rules and regulations. *See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information, The White House (December 19, 2005), Guidelines E, F and J.*

III. REGULATORY STANDARDS

The criteria for determining eligibility for security clearances set forth at 10 C.F.R. Part 710 dictates 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 and 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. ANALYSIS

A. The Individual's Finances

At the hearing, the individual attempted to explain his lengthy history of financial difficulties. He testified that those difficulties began in the late 1990s when he and his now ex-wife left the military, were both unemployed for a period of time, and were therefore unable to pay some of their bills. Hearing Transcript (Tr.) at 194. Another contributing factor to those financial problems was their infant son's hospitalization in 2003. The individual explained that although he had medical insurance, both he and his ex-wife took leave without pay to be with their son because they both had exhausted their available leave. This caused them to fall behind in paying their bills. Tr. at 195. At times in the past, the individual continued, his ex-wife would open credit accounts in both of their names without the individual's knowledge, and use those cards to accrue substantial amounts of debt. Tr. at 196. The individual incurred other expenses as a result of his father's illness and death in 2007. Tr. at 248-249. He then discussed his two foreclosures. According to the individual, the first occurred in 2006 or 2007, and was caused by his ex-wife

leaving him and ceasing her contribution to the mortgage payments. Although they later reconciled, it was too late to save their home from foreclosure. Tr. at 196-197. The second occurred as a result of their divorce, which became final in 2012. Tr. at 197.

Next, the individual addressed the garnishment of his wages in 2014 for child support purposes. Despite this action, he testified that he has always been current on his child support payments. He explained that he paid his child support in person at the appropriate location and then went to the family court in the same building to “make sure I’m current and I’m okay.” Tr. at 200. He was informed by someone at the family court that he still owed eleven dollars and that he was scheduled to appear in family court the next day for a “show cause” hearing. The individual insisted that he had paid his child support and inquired as to why he was being called into court. The employee consulted with another employee and then allegedly told the individual that they had not yet served him with notice of this appearance, and advised him to leave, or else they would be required to serve him with the papers requiring his appearance. The individual left, and during the following week, he was informed by a groundskeeper at his current residence that the police had been looking for him regarding allegedly unpaid child support. Upon hearing this, he called the family court and was instructed to come in and explain his side of things to a judge. Although he did so and allegedly informed the judge that he was up to date on his payments, the judge ordered that his wages be garnished anyway. Tr. at 200-202.

The individual went on to state that he has always been fully committed to satisfying his debts despite “some real hardships.” Tr. at 204. One of those hardships was a dysfunctional marriage to a woman who allegedly grew reckless in her spending. The individual claimed that she is out of his life now, and that he is “not being irresponsible like that in any way or fashion.” Tr. at 205. He said that he has no credit cards, pays cash for everything, and makes no frivolous purchases. Tr. at 206.

Based on this testimony, it is evident that some of the individual’s financial difficulties have been due to factors that were largely or entirely beyond his control. The individual plausibly testified that his two foreclosures were caused by his marital difficulties, and that he and his wife took unpaid leave during the serious illness of their infant son in 2003, which caused them to fall behind in paying their bills. However, these factors, including expenses incurred as a result of his father’s illness and death, simply do not adequately explain the duration and extent of the financial problems set forth in the SSC. For example, during the individual’s July 7, 2004, PSI, he stated that his son’s illness caused him and his ex-wife to become delinquent on their mortgage payments. DOE Exhibit (Ex.) 78 at 10. However, as of May 2004, the individual was at least four months behind on that account with a past due balance of \$10,246, and the individual and his ex-wife only took one week each of leave without pay during their son’s illness, with lost wages of approximately \$1,600. DOE Ex. 78 at 6; Tr. at 268-269.

It is evident from the record that the individual has not behaved in a financially responsible manner. As an initial matter, he has not exhibited sufficient attentiveness to his financial affairs through the years. As described above, the individual blamed a substantial portion of his delinquent debt on his ex-wife opening charge accounts in both of their names without his knowledge, and then making large expenditures using those accounts. Although the individual accepted responsibility for his ex-wife’s actions in opening the accounts, they do not necessarily

reflect negatively on the individual. However, his actions upon learning of these accounts do indicate poor judgment and a lack of reliability on the individual's part. In his January 27, 2000, PSI, the individual acknowledged that his ex-wife had opened a Sears account without his knowledge and promised to attempt to pay it off. DOE Ex. 90 at 46, 60. However, nearly one year later, no progress had been made in paying off this delinquent debt. During the individual's January 16, 2001, PSI, the individual stated that he did not know the last time that a payment had been made on this account, because he left that up to his ex-wife. DOE Ex. 85 at 17. To rely on his ex-wife to address this delinquency which she allegedly was responsible for, without monitoring her progress, demonstrated poor judgment and a lack of reliability on the individual's part. Moreover, on multiple occasions during the individual's 11 PSIs concerning his finances between 2000 and 2014, he was unaware of, or unable to explain delinquent accounts that appeared on his credit reports. This lack of attentiveness to, or knowledge of, his financial affairs continued at the hearing, where the individual was unable to satisfactorily explain the reasons for a loan of approximately \$10,000 that he had taken out against his 401(k) account, even though that loan had been made only five or six months prior to the hearing. Tr. at 230-239.

The individual's poor decisions have also contributed significantly to his financial difficulties. In 2005, the individual's brother needed a car, so the individual gave him one that the individual had purchased and told him to take over the monthly payments, with the understanding that the individual would retain the title until the car was paid off. The individual's brother stopped making payments, and the car was eventually repossessed. The individual apparently made no effort to check on whether his brother was making the payments, and he stated that he was never notified by the dealer that the payments were not being made. DOE Ex. 66 at 16. In his November 15, 2010, PSI, the individual said that he stopped making payments in 2007 on his delinquent debt for another car that he had purchased because he erroneously believed that the debt had been paid off. He based this belief not on his own financial records, but on the fact that the creditor stopped sending him dunning letters. DOE Ex. 43 at 21. The individual's May 2009 credit report (DOE Ex. 59) shows that he spent \$26,260 for yet another automobile in June 2008 despite the fact that, according to his June 2008 credit report, he had over \$2,000 in delinquent debt. DOE Ex. 61. Each of these decisions demonstrated poor judgment on the part of the individual.

The individual's financial difficulties were continuing as of the date of the hearing. His most recent credit report, dated May 18, 2015, revealed two collection accounts totaling \$11,607, two charged off accounts, thirty-two 30-day delinquencies, nineteen 60-day delinquencies, and eighteen 90-day delinquencies. The individual testified that the two collection accounts were for medical expenses that he incurred as a result of an automobile accident that he was involved in in 2013, and that those expenses were supposed to be paid by the insurance company of the other party to the accident. Tr. at 206. He also said that, with the exception of the two collection accounts, he did not have any overdue debt. Tr. at 273. However, he did not submit any evidence in support of his claims concerning the two collection accounts, nor any documentation that the 30, 60 and 90-day delinquencies had been brought up to date. Moreover, I did not find the individual's testimony about his child support payments, i.e., that his paycheck was garnished for no apparent good reason, to be credible, and I believe that his ongoing financial problems have made it difficult to satisfy his parental, and other, obligations. Significant security concerns remain under criterion (I) regarding the individual's finances. *See Adjudicative Guideline F, ¶ 19*

(inability or unwillingness to satisfy debts and a history of not meeting financial obligations are conditions that could raise a security concern and may be disqualifying).

B. The Individual's Legal Difficulties

Although the individual's account of his January 2012 arrest for DUI, Failure to Maintain Lane and Open Container (Tr. at 168-175) differed substantially from that offered at the hearing by the arresting officer (Tr. at 42-46), for the most part the individual did not contest the validity of that arrest. The individual's blood alcohol content was measured at the scene at .136, Tr. at 44, and he ended up pleading guilty to a reduced charge of Reckless Driving and Open Container. He was sentenced to 40 hours of community service, probation, and a fine. According to the Community Service Agreement signed by the individual on April 22, 2013, he was required to begin his service within seven days of signing the agreement and to complete a minimum of 20 hours of community service per month at a local charitable organization. He was further required to provide written documentation of any physical condition or handicap that would prevent him from performing his community service, and was informed that only the Court could exempt him from such service. DOE Ex. 24 at 3.

The individual testified that his duties at the charitable organization included a lot of lifting of heavy objects, and that he could not complete his service in a timely manner because he injured his back in a serious automobile accident. Tr. at 175-178. Since he was not an employee, he claimed, he was not permitted to perform less strenuous duties, such as answering telephones or doing paperwork. Tr. at 178. The individual also testified that he did not appear for his first probation violation hearing because he had moved and did not receive notice of the hearing, Tr. at 179, and that sometimes he sent his daughter to the probation officer to pay the installments on his fine, instead of reporting himself, as required, because of severe back pain. Tr. at 179, 221-222, 265.

The individual then testified about his 2013 Assault and Battery arrest. He said that he and his daughter went back to a house from which they had recently been evicted to retrieve some of his personal belongings. After he parked his car, got out, and started walking to the door of the house, he was approached by the president of the Homeowners Association (hereinafter referred to as "the HOA president"), who told him that he wasn't supposed to be there.³ The individual ignored him, entered the house, brought out several items, and put them in his car. The HOA president told the individual that if he entered the house again, he was going to call the police. When the HOA president came onto the individual's property with phone in hand, the individual continued, he decided to get into his car and leave to avoid a confrontation. The HOA president moved into the road, "right hand on the phone, left hand out, [and walked] in front of my car, almost like the side front panel of my car." Tr. at 184. The individual told the man to get out of the roadway so that he could drive off. When the HOA president dropped his arm, the individual thought that he had enough room to go around him. When he attempted to do so, the HOA

³ This was incorrect, as the eviction notice gave the individual until a certain date to surrender the premises, and that date had not yet arrived as of the date of the incident. *See* Individual's Exhibit A.

president “came back, leaned his body over, [and] stuck his arm out.” Tr. at 185. The individual’s car struck the HOA president’s elbow and hand. *Id.*

The individual’s daughter also testified, and essentially corroborated the individual’s account of this incident. She added that a second man, whom her father did not notice, was also in the street, and “reached over and slapped” the side view mirror on the passenger’s side of the car as the individual drove away. Tr. at 139.

After pulling away from the house, the individual was stopped by the local police, arrested, and charged with two counts of Assault and Battery. He said that he did not contest the charges because to do so would have cost “three or four thousand dollars that [he] just did not have” Tr. at 188. He was diverted into a Pre-Trial Intervention program (PTI), which included more community service, visiting jails, and seeing a counselor. *Id.* The individual also testified that he has not been charged with any other felonies, nor arrested nor charged with any violent crimes. Tr. at 190.

Nevertheless, the individual’s two arrests and failure to abide by the terms of his Reckless Driving probation raise serious concerns under criterion (1).⁴ Despite the individual’s testimony on the matter, I find the individual’s Assault and Battery arrest to have been warranted under the circumstances. The arresting officer also testified at the hearing. He said that according to statements taken from the two victims and from witnesses at the scene, the victims were attempting to detain the individual at the scene until the police arrived, and while attempting to drive off, the individual “swerved towards” each of them, striking their extremities with his vehicle and causing visible injuries to those extremities. Tr. at 50-51. Although the individual’s daughter testified that the individual did not swerve towards the victims, Tr. at 137, 139, I attribute greater weight to the disinterested account of a witness to the incident that the individual did swerve towards at least one of the victims. DOE Ex. 26 at 18. Based on the totality of the testimony, I believe that the individual’s intent was more to escape a stressful situation than to injure either of the victims. However, regardless of whether the individual swerved towards the victims, it is clear that his actions caused the vehicle to strike them, which caused visible injury to their extremities.

The individual’s failure to complete his Reckless Driving community service in a timely manner and the varying reasons that he has provided for that failure also raise serious concerns under criterion (1) about his judgment and reliability. As previously stated, at the hearing the individual said that he did not complete this community service in a timely manner because he had injured his back during a serious automobile accident. However, during his September 2014 PSI, he said that he had problems performing this community service because of the demands of his job and because he had custody of his children on weekends. DOE Ex. 5 at 37. Later during that same interview, he indicated that he did not “do [his Reckless Driving] community services” because he gave precedence to the community service imposed after his Assault and Battery arrest. He considered his performance of that community service to be more important because he believed

⁴ The individual was actually arrested a third time for contempt on January 26, 2012, for failing to make a court-ordered payment to his ex-wife. However, it appears that this arrest was due more to a shortage of funds than to a disregard for obeying legal requirements.

that it had a greater impact on his ability to carry a gun, and therefore on his ability to perform his job. *Id.* at 38. At the hearing, he further explained that he preferred the Assault and Battery community service because the work required was not as hard on his back and because the location at which this service was performed allowed him to bring his son along, whereas the location at which his other community service was performed did not. Tr. at 189.

None of these reasons justify the individual's failure to complete his Reckless Driving community service in a timely fashion. According to the agreement signed by the individual, this community service was supposed to be completed by the end of June 2013. However, the record indicates that it was not completed until over one year later, after his July 2014 violation of probation hearing. The individual's automobile accident occurred in July 2013. Tr. at 213. Therefore, the injuries from that accident could not have contributed to the individual's failure to complete his community service within the time period prescribed in his agreement. Moreover, his supervisor testified that he had modified the individual's duty schedule to accommodate the individual's legal and parental obligations, Tr. at 37-38, but there is no evidence that the individual asked his supervisor to modify his schedule during May and June, 2013. There is also no indication in the record that the individual sought to make other arrangements for the care of his children during this period, such as leaving them with his ex-wife or with a friend. Finally, there is insufficient evidence in the record from which I could conclude that completing his Assault and Battery community service in a timely manner made it impossible or impracticable to complete his Reckless Driving community service in a similar manner. Even if such evidence did exist, it is hardly a satisfactory explanation that the consequences of a second arrest prevented the individual from fulfilling the terms of a probation imposed after the first arrest.

I note that the individual did complete this community service after his July 1, 2014, hearing, and that there is no evidence that he has violated any other laws or court orders since then. However, this period of lawful behavior of less than 11 months, as of the date of the hearing, is insufficient to mitigate the unlawful behavior described above. The individual has not adequately addressed the DOE's security concerns under criterion (I) about his failure to adhere to his legal obligations. *See Adjudicative Guideline J, ¶ 31* (a single serious crime or multiple lesser offenses and violation of parole or probation are conditions that could raise a security concern and may be disqualifying).

C. The Individual's Failure to Keep His Commitments to the DOE

As previously mentioned, the SSC describes nine instances in which the individual allegedly made commitments to the DOE, and then failed to keep those commitments. Most of those instances concerned the individual's finances. Specifically, at various times during his 11 PSIs, the individual promised to not create any new debts without identifying a means of paying them off, to contact his creditors, establish payment plans, and pay off his debts. Although it is clear that the individual was not able to fully keep all of these commitments, it is also clear that these failures were mitigated, at least in part, by the financial circumstances previously discussed that were beyond the individual's control.

However, no mitigation is evident in the record concerning three of these nine instances. During his February 2001 PSI, the individual committed to paying off his debts as they developed and to

living within his means. DOE Ex. 85, February 2001 PSI at 10. Nevertheless, the individual's April 10, 2002, credit report shows a purchase of an automobile for \$14,347 in December 2001, despite his having \$5,352 in charged off accounts. DOE Ex. 80. Moreover, as previously mentioned, the individual's May 2009 credit report shows that he spent \$26,260 for yet another automobile in June 2008 despite the fact that he had over \$2,000 in delinquent debt. Although in many instances, the purchase of a vehicle may be a necessity, especially where adequate public transportation is not available, spending less on vehicles and using the funds to pay off some of the individual's delinquent debt instead would have been more in keeping with his commitment to satisfy his debts and live within his means.

The other two commitments concerned the individual's personal conduct. During his February 29, 2012, PSI, he promised that he would have no more criminal arrests and would abide by all court orders. DOE Ex. 34 at 61-62. During his February 18, 2014, PSI, the individual committed to being a law-abiding citizen and to following all rules and regulations. DOE Ex. 16 at 32. However, the individual was arrested for Assault and Battery on May 12, 2013, and violated the terms of his Reckless Driving probation as described above. The individual's failure to keep these promises reflects poorly on his reliability and trustworthiness, and raises significant security concerns under criterion (I).

V. CONCLUSION

For the reasons set forth above, I find that the individual has failed to resolve the DOE's concerns under criterion (I).⁵ Consequently, he has not demonstrated that restoring his security clearance 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 access authorization 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: July 10, 2015

⁵ The SSC also cites the individual's provision of allegedly contradictory or misleading information about the performance and completion of his community service and other court requirements as raising a criterion (I) concern. However, after reviewing the record in this matter, I find that the instances of such behavior cited either do not raise significant security concerns, or were adequately explained by the individual at the hearing.