

Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. *See* Transcript of Hearing (Tr.). At the hearing, the Individual presented the testimony of four witnesses and testified on his own behalf. The LSO presented the testimony of the Psychiatrist. The Individual submitted one exhibit, marked Exhibit A. The LSO submitted eleven exhibits, marked Exhibits 1 through 11.²

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline E (Personal Conduct), Guideline G (Alcohol Consumption), and Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the basis for concern regarding the Individual's eligibility to possess a security clearance. Ex. 1 at 7-9.

Guideline E provides that “[c]onduct 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.” Adjudicative Guidelines at ¶ 15. Conditions that could raise a security concern include “[c]redible 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[.]” *Id.* at ¶ 16(d). Examples of concerning behavior includes “[a] pattern of dishonesty or rule violations[.]” *Id.* ¶ 16(d)(3). In the SSC, the LSO cited that the Individual used marijuana approximately three times from July 2018 to July 2019 while employed on a government-related site despite knowing that it was prohibited, and that he also used marijuana from May 2017 to 2018 while on an internship at a government-related site despite knowing that his conduct was prohibited. Ex. 1 at 7. This information justifies the LSO's invocation of Guideline E.

Guideline G provides that “[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. Conditions that could raise a security concern include “[a]lcohol-related incidents away from work, such as driving while under the influence” and “[d]iagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist . . .) of alcohol use disorder[.]” *Id.* at ¶ 22(a) and (d). The LSO cited the Psychiatrist's conclusion that the Individual met the Diagnostic and Statistical Manual of Mental Disorders, 5th Edition, criteria for Alcohol Use Disorder (AUD), Mild, without evidence of rehabilitation or reformation; that the Individual admitted that from 2017 to 2019 he occasionally drove while intoxicated after consuming beer; that the Individual drank to intoxication up to two times a month; that he last became intoxicated after consuming four beers and several shots of whiskey in December 2020; and that the Individual had a 2014 charge for Underage Consumption of alcohol. Ex. 1 at 7-8. This information justifies the LSO's invocation of Guideline G.

² The LSO's exhibits were combined and submitted in a single, 358-page PDF workbook. Many of the exhibits are marked with page numbering that is inconsistent with their location in the combined workbook. This Decision will cite to the LSO's exhibits by reference to the exhibit and page number within the combined workbook where the information is located as opposed to the page number that may be located on the page itself.

Under Guideline J, “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness.” Adjudicative Guidelines at ¶ 30. “By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* Conditions that could raise a security concern include “[e]vidence (including . . . an admission[] and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 30(b). The LSO cited that the Individual illegally used amphetamines weekly from 2014 to 2017, often selling one or two pills to a friend, and he used amphetamines one or two times between 2017 to 2019; he illegally used marijuana from 2013 to 2019, sold marijuana in 2017, and would buy it for his father and friends; he would return items his father stole in exchange for money between 2015 and 2017; he illegally used barbiturates four to six times during a four month period between 2015 to 2016; he illegally obtained barbiturates from a drug dealer for his father almost weekly from July 2015 to June 2016; he illegally used hallucinogens four times between 2014 and 2015; and in 2014, he was charged with Underage Consumption for using marijuana. Ex. 1 at 8-9. The above information justifies the LSO’s invocation of Guideline J.

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). An individual is afforded a full opportunity to present evidence supporting his or her eligibility for an access authorization. The Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* at § 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

A. Marijuana Use When Prohibited by Employer

Prior to the hearing, the Individual admitted using marijuana from May 2017 to 2018 while on an internship at a government-related site. Ex. 7 at 60. He knew that marijuana was considered an illegal drug and prohibited by his employer. *Id.* At the conclusion of his internship, he pursued employment at a related site, so he stopped using marijuana because he knew “there would be a drug test involved.” *Id.*

The Individual reported that, after passing a drug test in 2018, he used marijuana approximately three times while employed in the new position at a government-related site. *Id.* At the time, he did not believe he would be considered for permanent employment or a security clearance with his employer, and he thought that he would never get caught. Ex. 2 at 12-13; Ex. 7 at 60. He was approximately twenty-two at the time. Ex. 8 at 70. He reported that he no longer wished to consume marijuana or associate himself with habitual users because of the negative consequences that consuming marijuana could have on his career, his health, and workplace safety. Ex. 2 at 12-13. At the hearing, the Individual testified that his conduct had been “reckless.” Tr. at 72-73. He testified that he no longer associates with people who smoke marijuana, and he last consumed marijuana in March 2019. *Id.* at 71, 73, 105-106. He testified that using marijuana is “irresponsible and it’s immature and it’s not something that responsible people do, not conducive to any of the goals that [he] want[s] to accomplish.” *Id.* at 73.

B. Alcohol Consumption

The Individual disclosed that he received a citation in 2014 for Underage Consumption of Alcohol after he failed a field sobriety test at a house party. Ex. 10 at 241. However, he reported that he failed the test because he consumed marijuana, not alcohol. Ex. 11 at 278. During the 2021 Psychiatrist evaluation he underwent as part of the security investigation process, the Individual reported to the Psychiatrist that he became intoxicated a couple times a month and occasionally drove under the influence. Ex. 8 at 73. He also told the Psychiatrist that he would become intoxicated after consuming three to four alcoholic drinks in one hour. *Id.* at 74. He described a recent instance of consuming six beers in four hours, more than expected; feeling intoxicated; and then driving himself to a different location because “he felt fine” to drive. *Id.* He told the Psychiatrist that he had no intention of changing his pattern of alcohol consumption. *Id.*

The Psychiatrist diagnosed the Individual with AUD, Mild, after finding that the Individual often consumed more alcohol than intended, that the Individual demonstrated recurrent use in situations that are physically hazardous, and that the Individual’s alcohol use indicated a tolerance for alcohol. Ex. 8 at 75. She also noted that “it is highly likely that [the Individual] is genuinely unaware that his drinking is problematic and so he has not been inclined to change his drinking behavior.” *Id.* The Psychiatrist recommended that the Individual could demonstrate rehabilitation by abstaining from alcohol for twelve months, participating in Ethyl Glucuronide (EtG) and Phosphatidylethanol (PEth) testing,³ and attending Alcoholics Anonymous (AA) meetings or an alternative program. Ex. 8 at 77.

³ EtG and PEth tests are laboratory tests that measure biomarkers for alcohol use. Tr. at 115.

At the hearing, the Individual testified that he stopped consuming alcohol in late July 2021 when he received the Psychiatrist's report and saw the recommendation for abstinence. *Id.* at 77. He testified that he was "surprised that [his] level of use and circumstances [of his alcohol use were] considered a disorder." *Id.* After reflecting on the recommendations, he saw his alcohol use as "a problem" given his family history of relatives suffering from alcohol-related illnesses. *Id.* He testified that he discussed his desire to abstain with his fiancée, business partner, and close friends, and they all encouraged and support him in his abstinence. *Id.* at 78, 99. The Individual's friend and business partner testified that he had read the Psychiatrist's report, that he and the Individual discussed the Individual's desire to remain abstinent, and that he had not seen the Individual consume alcohol since. *Id.* at 53, 62.

The Individual testified that he did not pursue professional counseling because he believed he would be able to manage abstinence without additional coping mechanisms or medication. *Id.* at 78. He also testified that he did not subsequently experience urges to consume alcohol, and he reported avoiding alcohol when, in social settings, others were consuming it.⁴ *Id.* at 78-79. He provided an example of a recent trip in early 2022 where his fiancée consumed alcohol and he did not. *Id.* at 75. He testified that "everyone" has been supportive of his abstinence, and he does not surround himself "with anyone that wouldn't support [him] making [himself] a better person." *Id.* at 80.

The Individual's longtime friend testified that he and the Individual had discussed the Individual's desire to remain abstinent, and he subsequently observed the Individual refrain from consuming alcohol in social settings where others, including the longtime friend, were drinking alcoholic beverages. *Id.* at 20-21.

At the hearing, the Psychiatrist opined that the Individual met her "expectations of adequate rehabilitation and reformation." *Id.* at 124. She updated her diagnosis to AUD, early remission, and opined that his current prognosis is "excellent." *Id.* The Psychiatrist clarified that the recommendations in her report provided the "most thorough" path to demonstrate rehabilitation and reformation. *Id.* at 125-26. After reviewing her initial diagnosis, the Psychiatrist concluded that the Individual had demonstrated rehabilitation because he was not consuming alcohol and had no intention to do so in the future. *Id.* at 123. The Psychiatrist also concluded that the Individual had shown reformation by demonstrating "a structural change" by recognizing the beneficial effects of his sober lifestyle. *Id.* The Psychiatrist explained that the Individual's testimony reflects that sobriety has had a positive effect on his life, which is "congruent" with his desire to be "a productive member of society." *Id.*

The Psychiatrist further explained that the Individual demonstrated consistent candor and good judgment in the way he "handled himself" in this process. *Id.* at 127. The Psychiatrist opined that, while the Individual did not attend AA, he presented "as somebody who does his research, makes a decision and then implements the plan" to fulfill his goal. *Id.* at 120. She testified that he demonstrated a very good understanding of the risks of an alcohol use disorder without having attended an educational program like AA. *Id.* at 123-24. She explained that the Individual had used

⁴ The Individual provided a few examples. He goes on dates and vacation with his fiancée, who consumes alcohol, but not to intoxication. Tr. at 74-75. He is also involved in a recreational activity group, and after the meetings the members typically go to a brewery, which he "infrequently" attends. *Id.* at 79.

some of the “notions” behind AA and other support groups in his recovery. *Id.* at 121. She stated that “accountability” is one of the “most helpful things about . . . AA.” *Id.* She noted that the Individual did not challenge her report; instead, he disclosed it to a friend, and he told his friends about his intent to abstain. *Id.* at 117, 121. As a result, they provided accountability through their encouragement. *Id.* at 121. The Psychiatrist further opined that the Individual demonstrated motivation, which combined with his support and accountability to create an effective peer support network. *Id.* at 122.

The Psychiatrist also noted that the Individual had remained abstinent despite having been in situations involving activities that were heavily associated with drinking in the past. *Id.* at 122. The record includes one PEth test result. Ex. A. The Psychiatrist testified that the PEth test result covered a period where the Individual was vacationing with his fiancée, and the negative PEth test result provided evidence of his ability to successfully abstain. *Id.* at 129; *see* Ex. A. She opined that “he has all things in place” to continue his abstinence and “sounds very motivated and committed to being sober indefinitely.” *Id.* at 123.

C. Criminal Conduct

Prior to the hearing, the Individual stated in his hearing request that he did not deny the various allegations cited in the SSC regarding his past illegal conduct. Ex. 2 at 15. He stated that his use of marijuana, barbiturates, and hallucinogens was “irresponsibly recreational and exploratory in nature.” *Id.* He also stated that he engaged in the behavior in college and shortly thereafter at an earlier time in his development. *Id.* He asserted that he no longer uses illegal substances, and he does not have any friends who use them. *Id.* He reported to the Psychiatrist that the last time he used an illicit drug was a single pill of Adderall, an amphetamine, in September 2019 to help meet a deadline. Ex. 8 at 73; Ex. 7 at 57. At the hearing, he clarified that that the deadline was unrelated to work for his employer. Tr. at 80-81.

Regarding hallucinogens, the Individual testified that he had not used any since 2015. Tr. at 82-83. This conduct occurred while attending college, with a person he has not seen since 2016. *Id.*

In reporting his amphetamine use, he asserted in his hearing request that he would acquire Adderall for himself and his prior girlfriend during college. Ex. 2 at 15. He further stated that he used them weekly from 2014 to 2017, and then one to two times thereafter. Ex. 7 at 57. In his hearing request, he reported that while he perceived it as a necessity, he had “since learned adaptive coping strategies” for his issues with attention and organization. Ex. 2 at 15. At the hearing, testified that he used Adderall to keep up with his academic demands. Tr. at 81. He also confirmed that he last used Adderall in 2019. *Id.* at 80-81. He testified that he no longer associates with his prior girlfriend. *Id.* at 81.

As to his use of barbiturates, he reported in a 2019 security questionnaire that he completed as part of his clearance investigation that he used them in college to calm himself from the effects of his Adderall usage. Ex. 10 at 160. He testified that he last used barbiturates in early 2016. Tr. at 81. Prior to that, he used them four to six times in a four-month period, starting in 2015, according to his written submission to the LSO. Ex. 7 at 57. The record demonstrates that the Individual’s use of barbiturates is closely related to his relationship with his father. In his security questionnaire,

the Individual described his father as having an opiate dependence. Ex. 10 at 162. The Individual testified that he did not have a relationship with his father prior to living with him in 2015. Tr. at 83-84. He moved in with his father to reduce living expenses while in college because the Individual had been struggling to pay rent and the Individual's grandfather suggested the arrangement so that the grandfather could provide support to both the Individual and the Individual's father. *Id.* at 83-85. The Individual lived with his father from 2015 to 2016. *Id.* at 83-84.

While the Individual lived with his father, his father would use illegal drugs and shoplift. *Id.* at 85. The Individual's father also provided barbiturates to the Individual. *Id.* at 82, 84. Prior to the hearing, the Individual reported that he had obtained barbiturates for himself and his father using his father's money. Ex. 2 at 15. He reported in the security questionnaire regularly obtaining them for his father until 2016. Ex. 10 at 160.

In addition to procuring barbiturates for his father, the Individual would return stolen merchandise in exchange for money for his father. Ex. 2 at 16. Prior to the hearing, he reported that he returned stolen merchandise from April 2015 to April 2017 to support his father's illegal drug use.⁵ Ex 7 at 54. He explained that he assisted his father because his father "would be hysterical and persistent" when in need of illegal drugs. *Id.* At the hearing, the Individual testified that his father would take the Individual's car by himself or have the Individual drive him places, and his father would sometimes take the Individual's wallet and keys without notice. Tr. at 85. The Individual disclosed in a written response to the LSO that that these trips were for the purpose of buying illegal drugs. Ex. 7 at 58; Ex. 11 at 285. The Individual's testimony described his father showing up at the Individual's college to ask for money or other items, which prompted the Individual to give his father money "more often than not to get him to go away." Tr. at 85. The longtime friend confirmed that the Individual had complained about his father's behavior. *Id.* at 22. The Individual's friend and business partner described the father as a "con artist" who uses "tactics to manipulate and swindle people." *Id.* at 55.

After the Individual moved out, his father would sometimes "show up and bang on [the Individual's] door and create a scene until [he received] money." *Id.* at 85. The Individual described the experience as very stressful. *Id.* at 86. The Individual testified that his relationship with his father normalized drug use for self-medication and recreation. *Id.* at 87-88. He later realized that he needed to make a change, or he risked winding up like his father—a man with several arrests and a range of criminal charges. *Id.* at 86-87. The Individual testified that he has not communicated with his father since 2018. *Id.* at 82. He has no plans to rebuild a relationship with his father, stating that it is not his "responsibility[] to remediate [his father] or make him get better[.]" *Id.* at 88-89. Instead, the Individual wants to get married and start a family. *Id.* at 89. He testified that he would contact the local authorities if his father ever came to his door in the future. *Id.* at 102. He also testified that illegal drug use is "not right" and irresponsible. *Id.* at 88.

Turning to the Individual's history of selling illegal drugs, the Individual testified that he only did it as a casual exchange as opposed to selling the substances for profit—offering to pick up an extra amount to bring back to friends in exchange for its cost. Tr. at 106. In a written submission to the LSO, he described the same. He stated that he would "pick up a little extra" marijuana when

⁵ The Individual estimated the total amount of money he obtained to be no more than \$1,000. Ex. 11 at 280.

purchasing for himself if he knew a friend would want some or if the Individual's father gave the Individual money. Ex. 7 at 58. As for the amphetamines, he would sell one or two of the pills he purchased to friends "if they wanted one." *Id.* He also purchased twenty pills at a time for his prior girlfriend. *Id.* And he obtained barbiturates for his father. *Id.*

The Individual testified that he last engaged in selling illegal drugs when he purchased and then sold Adderall to his prior girlfriend in 2018 to help her on college exams. Tr. at 107. He said that he did it because he knew she wanted it, and he wanted her to succeed. *Id.* at 108. He testified that she later obtained a prescription for Adderall once she obtained health insurance. *Id.*; Ex. 2 at 15. He testified that he will not sell illegal drugs in the future. Tr. at 106. He asserted in his testimony that he now avoids placing himself in similar situations, and he is surrounded by responsible and respectful people that will not pressure him to do anything he is not comfortable doing. *Id.* at 109-10. He testified that he is focused on obtaining "job security," starting a family, and making his "parents and family proud." *Id.* at 93.

At the hearing, the Psychiatrist testified that the Individual did not have a substance use disorder. *Id.* at 115. She characterized the Individual's past drug use as "aberrant" and of the "type and frequency and context that are sort of typical for college students . . . in that age range[.]" *Id.* at 116.

V. ANALYSIS

Considering the record in this case, this Decision will first address the Guideline G considerations before turning to the Guideline J and Guideline E considerations.

A. Guideline G Considerations

A condition that can mitigate security concerns based on alcohol consumption is that "[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).

The Individual brought forth sufficient evidence to apply ¶ 23(b) and resolve the Guideline G security concerns. First, there is ample evidence that the Individual acknowledged his pattern of maladaptive alcohol use. His testimony demonstrates that, after being surprised by his AUD diagnosis, he then considered his alcohol use as a problem after reflecting on his family's history of alcohol-related medical problems.

Second, the Individual put forth evidence of the following actions that he has taken to overcome the problem: he stopped consuming alcohol; he disclosed his diagnosis to at least one friend; he enlisted the continuing support of his friends and fiancée to hold him accountable; he continues to avoid people that do not support his abstinence; and he continues to maintain sobriety.

Finally, the Individual demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations. First, he demonstrated that he stopped consuming alcohol once

he received the Psychiatrist's report, and he has remained abstinent for a significant period thereafter. My finding is supported by the Individual's testimony, witness testimony, and a negative PEth test. Second, the Psychiatrist opined that the Individual, through his efforts, demonstrated adequate rehabilitation and reformation of his AUD. The Psychiatrist's opinion is based on substantial evidence and consistent with her initial categorization of his AUD as mild. In reaching my conclusion, I favorably considered the Individual's consistent candor, and I adopt the Psychiatrist's opinion that the Individual has an excellent prognosis. Accordingly, I find that the Individual has resolved the Guideline G security concerns.

B. Guideline J Considerations

Based on the record in this case, the Individual may resolve the Guideline J security concerns by demonstrating that "[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[.]" Adjudicative Guidelines at ¶ 32(a).

I conclude that the Individual has put forth sufficient evidence to demonstrate that ¶ 32(a) applies to resolve the Guideline J concerns. The record demonstrates that the Individual engaged in two broad categories of criminal conduct, both cited under Guideline J. The first category covers criminal conduct that the Individual committed for himself and his friends, which includes using and selling illegal drugs. The second category covers criminal acts that he did for his father, which includes selling illegal drugs and agreeing to return stolen merchandise.

1. Criminal Conduct Done for the Individual and Friends

Regarding the first category, I find that ¶ 32(a) applies to resolve the related security concerns. I first note that the Psychiatrist concluded that the Individual does not have a substance use disorder. Accordingly, I make the following findings.

I find that a significant period has elapsed since the Individual obtained and used illegal drugs. Regarding the Individual's amphetamine use, the record demonstrates that he stopped regularly using the substance in 2017, and he last used it approximately two and a half years ago when he obtained a single pill from his prior girlfriend in 2019 to meet a project deadline. Stated differently, he transitioned from frequent amphetamine use in college, to using it only twice thereafter in a two-year period, to completely refraining thereafter for over two years. Turning to the remaining substances, I find the following. The Individual only used barbiturates to counter the effect of the amphetamines he used to study, and he last used barbiturates six years ago, in 2016, during a four-month period. He last used marijuana three years ago. And he used hallucinogens in college for a relatively brief period, ending approximately seven years ago.

I also find that a significant period has elapsed since the Individual sold illegal drugs to his friends and prior girlfriend. The Individual established that he did not sell amphetamines and marijuana for profit. Instead, he sold small amounts to friends as a favor ancillary to his personal use, and he provided Adderall to his prior girlfriend because she wanted it to increase her academic performance. The last time he engaged in this behavior was in 2018, approximately four years ago.

In addition to my above findings regarding the passage of time, I find that the Individual's above behavior happened under circumstances that are no longer present. The record establishes that he changed his perspective on using amphetamines to increase mental performance, no longer seeing it as a necessity, and he has developed different strategies to manage the pressures that motivated his use. Similarly, regarding marijuana, he realized his conduct was reckless, immature, and inconsistent with accomplishing his career and life goals. The Individual established that he no longer uses illegal drugs, he does not intend to use or sell illegal drugs in the future, and he no longer associates with people that use illegal drugs. Instead, he now has full-time employment with his present employer, something he previously considered to be unlikely. And he is focused on establishing a successful career, getting married, and building a family. I find that these strong motivators were not previously present, and they add credibility to his testimony that he has changed his perspective regarding involvement with illegal drugs—especially since it jeopardizes his career and above goals. Finally, I find that the Individual's testimony that his prior relationship with his father normalized inappropriate self-medication and recreational drug use demonstrates his reflection on his past conduct and a changed mindset.

Based on my above findings, I conclude that the Individual's past behavior is unlikely to recur and does not cast doubt on his reliability, trustworthiness, or good judgment.

2. Criminal Conduct Done for the Individual's Father

I find that ¶ 32(a) also applies to resolve the security concerns derived from the criminal conduct the Individual engaged in for the benefit of his father. I first find that a significant period has elapsed since the criminal conduct. The Individual established that he stopped returning stolen merchandise in 2017 and stopped acting as the go-between for barbiturates in 2016. He then ceased all communication with his father in 2018, approximately four years ago.

I also find that the Individual's above behavior happened under circumstances that are no longer present. The Individual established that he engaged in this criminal conduct, at least in part, because his father would use public embarrassment and other tactics to obtain the Individual's assistance. While that dynamic is unfortunate, it alone does not excuse his behavior. However, the Individual also brought forth evidence of the actions he undertook demonstrate that his past criminal conduct is not likely to recur. Not only did he terminate his relationship with his father approximately four years ago, but my findings in the previous sections demonstrate he has completely changed his perspective on his past illegal behavior—considering it reckless and counter to his goal of enjoying a career that requires a security clearance. Similarly, the record demonstrates that he intentionally surrounds himself with people who support him in becoming a better person. The Individual presents a different picture of himself today than at the time of his criminal activity—a college student and young adult struggling to pay rent, vulnerable to his father's negative influence, and who had not yet felt the impact that his poor decisions would have on his career. Thus, the circumstances that surrounded him and motivated him to engage in criminal conduct for his father are no longer present. Accordingly, I find that so much time has elapsed since the criminal behavior happened, and the circumstances under which it happened have changed, such that it is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment. I therefore find that ¶ 32(a) applies to resolve the remaining Guideline J security concerns.

C. Guideline E Considerations

Based on the record in this case, the Individual may mitigate the Guideline E security concerns derived from his personal conduct by demonstrating that he “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[.]” Adjudicative Guidelines at ¶ 17(d).

I find that ¶ 17(d) applies to resolve the Individual’s Guideline E security concerns for the following reasons. First, I find that the Individual acknowledged that his marijuana use, including while associated with the government-related sites, was inappropriate behavior by credibly explaining his changed perspective on using marijuana. He described his past conduct as reckless, immature, and inconsistent with accomplishing his career and life goals at a time when he did not seriously consider having a career with a security clearance. Second, the record demonstrates the positive steps he has taken to alleviate the circumstances and stressors that contributed to his behavior by completely ceasing the conduct approximately three years ago; by continuing to refrain from associating with individuals with whom he previously consumed marijuana; by acknowledging that his conduct was inappropriate; and by demonstrating that he is motivated to excel in his personal life, future marriage, and a career that requires compliance with rules and regulations. My analysis under Guideline J regarding the Individual’s illegal drug use further supports my conclusion. Accordingly, I conclude that the behavior is unlikely to recur, and the Individual has therefore resolved the Guideline E security concerns.⁶

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline G, Guideline J, and Guideline E of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has brought forth sufficient evidence to resolve the security concerns set forth in the SSC. Accordingly, I have determined that the Individual should be granted access authorization.

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

James P. Thompson III
Administrative Judge
Office of Hearings and Appeals

⁶ While LSO did not cite the Individual for his use of Adderall under Guideline E, and I therefore did not address it thereunder, his use of such was nonetheless mitigated under Guideline J in the preceding section of this Decision.