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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: December 17, 2021 ) Case No.: PSH-22-0030  
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Issued: May 12, 2022

**Administrative Judge Decision**

Katie Quintana, Administrative Judge:

This Decision concerns the eligibility of XXXXXX XXXXX (hereinafter referred to as “the Individual”) to hold an access authorization under the United States Department of Energy’s (DOE) regulations, set forth at 10 C.F.R. Part 710, “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material.”<sup>1</sup> 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 Individual is employed by a DOE contractor in a position that requires him to hold a security clearance. In completing a Questionnaire for National Security Positions (QNSP) in February 2020, the Individual disclosed that he was arrested for “operating a motor vehicle under the influence of alcohol” in April 2018. Ex. 9 at 83. He additionally disclosed that he was arrested in May 2019 for Harassment. *Id.* at 84. In February 2021, the Individual was evaluated by a DOE consultant psychologist (Psychologist). Ex. 7. The Psychologist diagnosed him with Alcohol Use Disorder, Moderate, in Early Remission, without adequate evidence of rehabilitation. *Id.*

Due to unresolved security concerns related to the Individual’s alcohol use, the Local Security Office (LSO) informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding the Individual’s eligibility to hold a security clearance. In the Summary of Security Concerns attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (alcohol consumption) of the Adjudicative Guidelines. Ex. 1.

<sup>1</sup> The regulations define access authorization as “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). This Decision will refer to such authorization as access authorization or security clearance.

Upon receipt of the Notification Letter, the Individual exercised his right under the Part 710 regulations by requesting an administrative review hearing. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me the Administrative Judge in the case, and I subsequently conducted an administrative hearing in the matter. At the hearing, the DOE Counsel submitted 10 numbered exhibits (Ex. 1-10) into the record and presented the testimony of the Psychologist. The Individual introduced six lettered exhibits (Ex. A-F) into the record and presented his own testimony as well as that of seven other witnesses. The hearing transcript in the case will be cited as “Tr.” followed by the relevant page number.

## **II. Regulatory Standard**

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 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).

An 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 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.

## **III. Notification Letter and Associated Security Concerns**

As previously mentioned, the Notification Letter included the Summary of Security Concerns, which set forth the derogatory information that raised concerns about the Individual’s eligibility for access authorization. The Summary of Security Concerns specifically cited Guideline G of the Adjudicative Guidelines. Ex. 1. Guideline G relates to security risks arising from excessive alcohol consumption. “Excessive 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.

In citing Guideline G, the LSO relied upon the Psychologist’s February 2021 determination that the Individual met the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), criteria for a diagnosis of Alcohol Use Disorder, Moderate, in Early Remission, without adequate evidence of rehabilitation. Ex. 1. It additionally cited two alcohol-related incidents involving the Individual: (1) a May 2019 incident in which the Individual was arrested and charged with two counts of Harassment after consuming six to eight beers and (2) an April 2018 arrest for

Driving Under the Influence of Drugs/Alcohol (DUI) after consuming three or four beers. *Id.* The LSO also cited an October 2020 Letter of Interrogatory (LOI) completed by the Individual in which he stated that: (1) from July 2020 to October 2020, he consumed four to six drinks of liquor and beer three to four days per week and eight to ten drinks on the weekends; and (2) he last became intoxicated in October 2020 after he consumed ten to twelve alcoholic drinks. *Id.*

#### **IV. Findings of Fact**

On October 18, 2020, the Individual completed an LOI at the request of the LSO. Ex. 6. The Individual reported that, in April 2018, law enforcement stopped him for a minor traffic violation. *Id.* at 6. When law enforcement performed a breathalyzer test, the Individual's test result was .08, and as such, he was arrested for DUI. *Id.* Following the DUI, the Individual reported that he was abstinent from alcohol for 12 months as part of a diversion agreement through the court. *Id.* at 1, 7. The Individual added that he voluntarily sought individual and group counseling and attended 20 counseling sessions over the course of approximately a year.<sup>2</sup> *Id.* at 3-4. He was diagnosed with "alcohol abuse" and received a recommendation to attend "outpatient group therapy."<sup>3</sup> *Id.* at 4.

The Individual further reported that, in May 2019, he was arrested and charged with two counts of Harassment. *Id.* at 7. The Individual explained that, after consuming six to eight alcoholic drinks in a bar, he stopped at a gas station to buy a beer. *Id.* There, he encountered two women and believed that the women "were interested in [him] and wanted [him] to follow them." *Id.* He followed them to a police station where he was arrested when he entered the building to use the restroom. *Id.* The Individual noted that, from June 2020 to October 2020, he consumed approximately four to six alcoholic drinks several times per week, and eight to ten alcoholic drinks on the weekends. *Id.* at 1. However, he affirmed that, as of October 17, 2020, he had the intention of remaining abstinent from alcohol indefinitely. *Id.* at 1, 6.

As stated above, due to unresolved security concerns arising from the Individual's alcohol use, the Individual underwent an evaluation with the Psychologist in February 2021. Ex. 7. The Psychologist's report (Report) noted that the Individual completed an Intensive Outpatient Treatment Program (IOP) in May 2019; however, the Individual had not yet participated in Alcoholic Anonymous (AA). *Id.* at 6. The Psychologist noted that the Individual recognized that "ongoing alcohol treatment needed to be a priority as 'preventative maintenance.'" *Id.*

The Individual reported during the evaluation that, on October 17, 2020, he and his wife decided that he should not consume alcohol, and he had remained abstinence since that time. *Id.* at 7. As part of the evaluation, the Psychologist ordered an Ethyl Glucuronide (EtG) and a Phosphatidyl Ethanol (PEth) test. *Id.* at 7. The EtG test was negative, indicating that the Individual "had not consumed alcohol" within four days preceding the collection of the urine sample. *Id.* Similarly, the Individual's PEth test was negative, indicating that, within the "3-4 weeks" preceding the test, the Individual "had been completely abstinent from alcohol or consumed fewer than two standard drinks per day several days per week." *Id.* As such, the Psychologist determined that the Individual's test results were consistent with his report of abstinence since October 2020. *Id.* at 10.

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<sup>2</sup> The Individual noted that, although the counseling was voluntary, it also satisfied the terms of a diversion agreement with the court. *Id.* at 3.

<sup>3</sup> It is unclear, based on the Individual's responses, who diagnosed him with "alcohol abuse." *Id.* at 4.

Ultimately, the Psychologist diagnosed the Individual with Alcohol Use Disorder, Moderate, in Early Remission, without adequate evidence of rehabilitation. *Id.* at 10. To demonstrate adequate evidence of rehabilitation, the Psychologist recommended that the Individual: (1) remain abstinent from alcohol for 12 months, (2) participate in AA for one year, including “three meetings per week and evidence of working the steps with a sponsor,” and (3) participate in an Employee Assistance Program (EAP) alcohol recovery course, including random Breath Alcohol Concentration (BAC) tests and at least two PEth tests over the course of his yearlong participation in AA. *Id.* at 11-12.

At the hearing, the Individual testified on his own behalf and presented the testimony of a work colleague (Colleague), a prior colleague and friend (Friend), his wife (Wife), his mother (Mother), his AA sponsor (Sponsor), an AA group member (Group Member), and his wife’s friend (Wife’s Friend).

The Colleague testified that he has known the Individual for approximately ten years through their work together. *Tr.* at 15. Although they have only maintained a professional relationship, the Colleague noted that he had previously observed the Individual consume alcohol at work happy hour events. *Id.* at 17. However, following the alcohol “incident,” the Individual told the Colleague that he was going to stop consuming alcohol, and the Colleague never observed the Individual consume alcohol again. *Id.* at 17-18. The Colleague testified that the Individual is responsible, and he has never been concerned about the Individual’s alcohol use as it related to his work. *Id.* at 18. Similarly, the Friend, of nearly a decade, testified that the Individual is “extremely trustworthy” and loyal, and he had never had any concerns about the Individual’s alcohol consumption. *Id.* at 23-24.

The Wife testified that she and the Individual have been married since 2011. *Id.* at 26. The Wife stated that, around the time the Individual began abstaining from alcohol, “he just turned around.” *Id.* at 30. She elaborated, stating that the Individual began going to the gym, and marital arguments that used to occur after the Individual had been consuming alcohol have ceased. *Id.* 30-31. The Wife stated that, during the time that the Individual was in “recovery,” she would measure the alcohol that she kept in their home to ensure that he was not consuming it. *Id.* at 29. She noted that “he didn’t touch any of [it], not at all.” *Id.* The Wife added that she does not believe the Individual will consume alcohol again because he told her that alcohol did not add value to his life, and it hurt everyone around him. *Id.* at 33.

The Mother testified that, while the Individual was in college, he would discuss his alcohol consumption with her, and she felt that it was problematic. *Id.* at 38-39. She stated that on October 17, 2020, the Individual called her and informed her that he “made the decision...[to] not drink again.” *Id.* at 39. He stated, “I cannot drink. I cannot maintain good judgment. I’m not going to drink in my lifetime. I’m going to find what it takes to become sober and stay sober.” *Id.* The Mother testified that the Individual has been open about his journey to become and remain abstinent from alcohol. *Id.* She recalled that he began AA in early June 2021, attended an “eight-week sobriety course,” and undergoes random alcohol testing through his employer. *Id.* The Mother stated that she was “really impressed” when the Individual began attending AA on a regular basis, three times a week or more, as it has created a strong support system for him. *Id.* at 39-40.

The Sponsor testified that he first met the Individual in early August 2021 at an AA meeting. *Id.* at 43. The Sponsor noted that, although he first met the Individual later in his sobriety, he knows that the Individual became abstinent from alcohol in October 2020 and had “been going to many different [AA] groups.” *Id.* at 44. In discussing how he became the Individual’s AA sponsor, the Sponsor explained that he does not commit to a sponsee unless the person displays a true and honest character and “a genuine will to improve.” *Id.* at 45. He noted that the Individual displayed “all of these characteristics.” *Id.*

The Sponsor testified that he leads two AA meetings throughout the week, both of which the Individual attends. *Id.* at 44. Furthermore, the Individual has acknowledged that he is an alcoholic, has worked through the Twelve Steps and continues to work through them. *Id.* at 45, 49. The Sponsor noted that the Individual is highly introspective, forthright, and honest, so much so that he is trusted as the treasurer of one of the AA groups. *Id.* at 45-46. The Sponsor stated that the Individual has demonstrated “tremendous” growth through his time in AA, and he “fully endorse[s]” the Individual, adding that the Individual has “been probably [his] best sponsee [he has] ever had.” *Id.* at 46-48.

The AA Group Member testified that she first met the Individual in July 2021 in an AA meeting, and he consistently attends three meetings per week.<sup>4</sup> *Id.* at 53, 56-57. She stated that she has remained abstinent from alcohol for 34 years and has “seen a lot of people come and go” in AA, and the Individual “really demonstrates an understanding of his alcoholism and the process he has to take to have a healthy life.” *Id.* at 54. She noticed that the Individual shares in every meeting, and, throughout that time, she has seen the “growth and personal insight [the Individual] has gained about the effects of his drinking.” *Id.* The Group Member added that the Individual is “determined to have long-term sobriety” and understands the importance of AA in providing support to achieve that goal. *Id.* at 54-55.

The Individual testified on his own behalf and did not dispute the allegations contained in the Summary of Security Concerns but sought to mitigate the concerns arising from his alcohol misuse. *Id.* at 74. The Individual testified that, prior to becoming abstinent from alcohol, he would utilize alcohol as a coping mechanism. *Id.* at 67. At the time he was arrested for DUI in 2018, he stated that he was aware that the situation was “bad,” but he developed an ability to “minimize the bad” through rationalization. *Id.* In 2019, when he was arrested for Harassment, the Individual testified that, although he knew it was a “critical point, in terms of how it affected [his] marriage,” he was still unable to recognize that this behavior was “a larger pattern of alcohol abuse.” *Id.* However, once he received the LOI in October 2020, he realized that his alcohol use was impacting his work, and he became “one hundred percent determined not to drink.” *Id.* at 68-69.

After receiving the Psychologist’s Report, in the spring of 2021, the Individual felt that the recommendation of three AA meetings per week would be a “burden,” but he was “determined to comply with the recommendations.” *Id.* at 69. The Individual testified that he first began attending virtual AA meetings in approximately January 2021, but he did not feel as though he belonged. *Id.* 70. The Individual testified that once he found the meetings organized by the Sponsor, he gradually started identifying with others in the group and came to the realization that he shared their character

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<sup>4</sup> Similarly, the Wife’s Friend testified that she saw the Individual attend three to four AA meetings a week while she was on two-week vacation with him and the Wife. Tr. at 59.

traits, was an alcoholic, and had “a real problem.” *Id.* at 72. After having this this insight, the Individual understood that he could no longer consume alcohol. *Id.* at 73. The Individual expressed “a lot of gratitude” for the recommendation that he attend AA as he does not believe he would have realized that he had a problem with alcohol without the help of AA. *Id.*

The Individual also worked with his employer’s human resources office to enroll in an EAP. *Id.* at 79. The Individual underwent random breath tests and two PEth tests, all of which were negative. *Id.* at 79; *see* Ex. A.<sup>5</sup> The Individual also enrolled in an “eight-week early intervention program,” through the help of his employer, which he completed in September 2021. Tr. at 79; Individual’s Request for a Hearing. He stated that the program helped educate him, but it “pale[d] in comparison with the benefits that [he] receive[s] from AA participation.” Tr. at 86.

The Psychologist testified after observing the hearing and listening to the testimony presented. He noted that, at the time he performed the evaluation, the Individual had already begun the process of reforming his Alcohol Use Disorder because the Individual already recognized that he had a problem with alcohol that was negatively impacting his life, and he had stopped consuming alcohol. *Id.* at 93. As such, the Psychologist stated that he made his recommendations based upon the Individual’s need to continue the rehabilitation process of remaining abstinent from alcohol. *Id.*

After considering the testimony at the hearing and the evidence in the record, the Psychologist opined that the Individual “is doing what he needs to do to remain sober on a continuing basis.” *Id.* at 94. The Psychologist testified that the Individual “met the criteria that [the Psychologist] set out” in the Report, and the Individual “has changed the focus of his understanding about alcohol use in his life.” *Id.* As such, the Psychologist noted that the Individual’s changed perspective has “transformed his life.” *Id.* The Psychologist explained that although the Individual still maintains a diagnosis of Alcohol Use Disorder, as the diagnosis never “goes away,” the Individual is no longer considered to be in Early Remission as he has been abstinent from alcohol for over 12 months. *Id.* at 95. Therefore, the Individual is now considered to be in Sustained Remission. *Id.* Ultimately, the Psychologist testified that the Individual has demonstrated adequate evidence of rehabilitation and reformation from the Alcohol Use Disorder, Moderate. *Id.* at 99.

## **V. Analysis**

I have thoroughly considered the record of this proceeding, including the submissions tendered in this case and the testimony of the witnesses presented at the hearing. In resolving the question of the Individual’s eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Adjudicative Guidelines. After due deliberation, I have determined that the Individual has sufficiently mitigated the security concerns noted by the LSO regarding Guideline G. I find that granting the Individual’s DOE security clearance will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.27(a). Therefore, I have determined that the Individual’s security clearance should be granted. The specific findings that I make in support of this Decision are discussed below.

### **Guideline G**

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<sup>5</sup> The Individual provided documentation for one PEth test. Tr. at 79; *see* Ex. A.

A diagnosis of alcohol use disorder by a duly qualified medical or mental health professional, including a clinical psychologist, is a condition that could raise a security concern and may disqualify an individual from holding a security clearance. Adjudicative Guidelines at ¶ 22(d). An Individual's failure to follow treatment advice once he is diagnosed, or the consumption of alcohol which is not in accordance with a treatment recommendation, after a diagnosis of alcohol use disorder, may disqualify an individual from holding a clearance. *Id.* at ¶ 22(e), (f). Additionally, alcohol-related incidents away from work could raise a disqualifying security concern. *Id.* at ¶ 22(a). If an individual acknowledges the 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, the individual may be able to mitigate the security concern. *Id.* at ¶ 23(b).

In this case, the Psychologist diagnosed the Individual with Alcohol Use Disorder, Moderate, in Early Remission following two alcohol related arrests. *See* Adjudicative Guidelines at ¶ 22(a), (d). Since his most recent arrest in 2019, the Individual has accepted that he has an Alcohol Use Disorder that was negatively impacting his life, stopped his consumption of alcohol, and completed an EAP alcohol program. Furthermore, according to the Sponsor, the Individual regularly and consistently engages in AA in an active and meaningful manner, and the Individual was able to describe the change that occurred within him through his participation in AA. The Individual has remained abstinent for over a year and has offered laboratory testing to support his claims of sobriety in the form of breathalyzer and PEth tests. *Id.* at ¶ 23(b). Furthermore, the Psychologist testified that the Individual has demonstrated adequate evidence of rehabilitation and reformation and is now in sustained remission from the alcohol use disorder. *See id.* at ¶ 22(d).

I find the Individual's testimony regarding his journey to recovery to be candid and replete with conviction and determination. Additionally, I find the testimony of the Sponsor to be particularly valuable, detailing the extent and insightfulness with which the Individual approaches his recovery in AA. As a result of the Individual's demonstrated dedication to his recovery and abstinence, I find that the Individual has mitigated the Guideline G security concerns.

## **VI. Conclusion**

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 have found that the Individual has brought forth sufficient evidence to resolve the security concerns associated with Guideline G. Accordingly, the Individual has demonstrated that granting his security clearance would not endanger the common defense and would be clearly consistent with the national interest. Therefore, I have determined that the Individual's access

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

Katie Quintana  
Administrative Judge  
Office of Hearings and Appeals