

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual presented the testimony of his psychologist (Individual's Psychologist), three other witnesses, and himself. The LSO presented the testimony of the DOE Psychologist. The Individual submitted four exhibits, marked Exhibits A through D. The LSO submitted eight exhibits, marked Exhibits 1 through 8.²

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines as the basis for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1. Guideline I provides that "[c]ertain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness." Adjudicative Guidelines at ¶ 27. Conditions that could raise a security concern include "[a]n opinion by a duly qualified mental health professional that the individual has a condition that may impair judgment, stability, reliability, or trustworthiness" *Id.* at ¶ 28(b). The SSC cited the DOE Psychologist's conclusion that the Individual meets the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, criteria for OCD, "which is an emotional, mental, or personality condition . . . that can impair his judgment, reliability, stability, or trustworthiness." Exhibit (Ex.) 1 at 5. The SSC also recited the DOE Psychologist's opinion that the Individual "continues to exhibit distorted thinking and he will likely experience obsessive compulsive thinking in the future when under duress." *Id.* The cited information justifies the LSO's invocation of Guideline I.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all of the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person's access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Department of Navy v. Egan*, 484 U.S. 518, 531 (1988) ("clearly consistent with the national interest" standard for granting security clearances indicates "that security determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

The Individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The Individual is afforded a full opportunity to present evidence supporting 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

² References to the LSO exhibits are to the exhibit number and the Bates number located in the top, right corner of each exhibit page.

§ 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

During the DOE Psychologist's evaluation, the Individual reported that in late 2019 he disclosed to his physician that he had experienced irrational thoughts of suicide. Ex. 6 at 26. This physician encouraged the Individual to seek help. *Id.* at 27. As a result, the Individual met with the Individual's Psychologist, however, he did not pursue treatment at that time. *Id.* Then, in January 2020, the Individual "had intrusive thoughts of harming his mother with a knife," which he told his mother before going to the hospital and voluntarily admitting himself. *Id.* While receiving treatment at the hospital, he was prescribed Sertraline. *Id.* The Individual was discharged from the hospital after one week. Ex. 6 at 27. The week after his discharge, he began therapy with the Individual's Psychologist and continued therapy until the end of December 2022. *Id.* The Individual's Psychologist diagnosed the Individual with OCD and depression and reported that the Individual experienced "scrupulosity," which are "obsessions that are associated with moral or religious issues that are often accompanied by compulsive moral or religious observance," and it "is highly distressing and maladaptive." *Id.* However, the Individual's Psychologist also told the DOE Psychologist that the Individual had significantly improved during treatment. *Id.* at 28. The Individual's Psychologist reported that he had met with the Individual approximately twenty-five times during the two-year period from January 2020 to December 2022. *Id.* at 27. The Individual's Psychologist also reported that the Individual would "continue to experience obsession and compulsive thoughts, particularly when under a lot of scrutiny," but the Individual would "be fine" if he uses his coping strategies to gain perspective. *Id.* at 28.

The Individual told the DOE Psychologist that his last episode of "major depression" occurred during his 2020 hospitalization and that "he experiences intrusive ideations on rare occasions" and "knows how to recognize and deal with his thoughts" by taking "a step back" and understanding that reality is separate from his thoughts. *Id.* According to the DOE Psychologist, the Individual described "having fleeting, intrusive thoughts regarding sexual impropriety with God and his mother." *Id.* at 27. The Individual also stated that if "he thought something" then "it must be true." *Id.* The Individual also reported that his treatment helped him gain "outside perspective" and significantly changed his views. *Id.* at 28. The DOE Psychologist concluded that the Individual "exhibited a distorted thought process" and "concrete thinking." *Id.* at 29. The DOE Psychologist concluded that the Individual met the criteria for a diagnosis of OCD and opined that while the Individual had "gained insight into his mental health, he continues to exhibit distorted thinking," and "it is likely that [he] will experience obsessive compulsive thinking in the future, particularly when under duress[.]" during which he "will be prone to using poor judgment . . ." *Id.* at 30.

At the hearing, the Individual's Psychologist confirmed that OCD is readily controllable with treatment and that the Individual began treatment in 2020. Hearing Transcript, OHA Case No. PSH-23-0139 (Tr.) at 54–55. He described the Individual's treatment plan as taking psychiatric

medication³ under the care of a psychiatrist and receiving “cognitive behavioral therapy,” which he described as “identifying unhealthy, dysfunctional, irrational thought patterns and stopping them and modifying them with healthy thinking.” *Id.* at 55. The Individual’s Psychologist testified that cognitive behavioral therapy is the “gold standard” for treating OCD. *Id.* at 55. The Individual’s Psychologist testified that he had met with the Individual for treatment sessions a total of forty-one times. *Id.* at 54. He described how he and the Individual worked on modifying the Individual’s perspective regarding religion, which caused the Individual anxiety, and opined that “the treatment was very helpful” because the Individual “developed a broader perspective of religion and spirituality” and “develop[ed] a notion of spirituality and religion that was . . . healthier and more effective for him,” along with learning techniques to stop dwelling on those concepts. *Id.* at 55–56. The Individual’s Psychologist testified that the Individual demonstrated “good insight” concerning his OCD beliefs because the Individual has been willing to consider and modify his beliefs; he is aware that his anxious, obsessive thoughts were interfering with his life; and he has demonstrated motivation to change them. *Id.* at 57. He also testified that the Individual had demonstrated ongoing and consistent compliance with his treatment plan. *Id.* at 55.

Lastly, the Individual’s Psychologist testified that the Individual can effectively deal with his condition and does not have a current problem. *Id.* at 58. By way of example, the Individual’s Psychologist testified that he did not treat the Individual for approximately one year because the Individual’s “symptoms were minimal[,] . . . there was nothing else . . . to do to help him at that time[,] and he was functioning well.” *Id.* at 59. However, as a result of experiencing anxiety due to the present administrative review process, the Individual restarted treatment with the Individual’s Psychologist in October 2023 and has received treatment every two to three weeks since. *Id.* at 62–63. The Individual’s Psychologist testified that OCD is a lifelong condition, the Individual will need to practice effective coping skills to manage it, and the Individual may need “tune-ups from time to time” when under considerable stress because symptoms may flare up. *Id.* at 60. He testified that the Individual’s OCD is under control. *Id.* at 61.

The Individual’s father testified that he believed the Individual exhibits good judgment and stated that the Individual’s decision to go to the hospital for treatment in 2020 is an example of good judgment. *Id.* at 13. He also testified that the Individual is very dependable and trustworthy. *Id.* at 14, 18. The Individual’s father believes that the Individual has been dealing with intrusive and negative thoughts in a positive, healthy way. *Id.* at 30–31.

The Individual’s friend and work mentor (Mentor) testified, and so did the Individual’s supervisor. Both the Mentor and supervisor testified that the Individual exercises good judgment and is responsible, punctual, reliable, and trustworthy. *Id.* at 40–41, 73–76.

The Individual testified that he was raised within a framework of strong religious indoctrination in which he was taught to have no self-value other than through religion. *Id.* at 81–82. As a result, he was constantly evaluating whether his actions were correct according to his religious indoctrination. *Id.* at 83–84. In his mind, there was no difference between a bad thought and actually taking a bad action. *Id.* at 84. This mental framework led to the distress he experienced upon having thoughts of harming his mother. *Id.* at 85.

³ The Individual’s Psychologist confirmed that the Individual is prescribed Sertraline, which is used to treat OCD. Tr. at 64–65.

The Individual testified that he has continued to take his physician-prescribed Sertraline to treat his OCD. *Id.* at 87. He also testified that he continues to employ the concepts of cognitive behavior therapy, including identifying “cognitive distortions” and forming rational responses to address them and thereby avoid dwelling on a particular topic. *Id.* at 88. He described being able to let intrusive thoughts “pass.” *Id.* at 89. He also testified that he has changed his view regarding religion “tremendously” and stated that he had developed “a fairly coherent view of the world that is healthy.” *Id.* at 89–90. He testified that his life is much more enjoyable because he is “no longer filtering everything through [his former religious] lens.” *Id.* at 91. He confirmed that the administrative review process was “stress-inducing” but also beneficial in helping him better understand his OCD prognosis. *Id.* at 101–02. He testified that he would continue to meet with the Individual’s Psychologist for treatment with the hope of one day becoming “self-sufficient.” *Id.* at 98.

After considering the preceding testimony, particularly the testimony of the Individual’s Psychologist regarding the Individual’s ongoing treatment, the DOE Psychologist provided an updated opinion. *Id.* at 106–07. The DOE Psychologist testified that the Individual is “at a place of remission from OCD” and has “the tools to combat the symptoms as they potentially arise in the future.” *Id.* at 107. The DOE Psychologist also testified that she did not have any concerns regarding the Individual’s current mental health status. *Id.* at 108. Finally, she testified that the Individual has a favorable prognosis. *Id.* at 109.

V. ANALYSIS

Under Guideline I, the following relevant conditions could mitigate security concerns associated with a psychological condition:

- (a) The identified condition is readily controllable with treatment, and the individual has demonstrated ongoing and consistent compliance with the treatment plan;
- (b) The individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional;
- ...
- (e) There is no indication of a current problem.

Adjudicative Guidelines at ¶ 29.

I find the above conditions apply to resolve the Guideline I concerns. Since I rely upon much of the same evidence in analyzing each of these mitigating conditions, the following analysis addresses them together. The record demonstrates that the Individual’s psychological condition is readily controllable with treatment. Both psychologists testified unequivocally to this fact. Additionally, the record demonstrates that the Individual has been voluntarily taking his prescribed medication to treat OCD and has been voluntarily receiving treatment from the Individual’s

Psychologist to address his psychological condition starting in January 2020, and, more recently, re-starting in October 2023. By restarting therapy, the Individual demonstrated the ability to successfully manage his condition when experiencing increased stress. Furthermore, the Individual's Psychologist's testimony establishes that the Individual has complied with his treatment plan. The record is clear that the Individual has made significant progress in treatment: he provided substantial testimony describing his changed thinking and how he uses the tools he obtained through cognitive behavioral therapy to address his condition and modify his perspective. And the testimony of the Individual's Psychologist and father also provided evidence of his progress. Further still, the record establishes that the Individual has received a favorable prognosis. The Individual's Psychologist opined that the Individual has a good prognosis if he continues with his treatment, and the DOE Psychologist gave the Individual a favorable prognosis. Lastly, I find persuasive the opinion of the Individual's Psychologist that the Individual's OCD is currently under control and the opinion of the DOE Psychologist that there are no concerns regarding the Individual's current mental health status. Thus, I conclude that the Individual has put forth sufficient evidence to resolve the Guideline I security concerns.

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 I 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 Guideline I 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