

**United States Department of Energy
Office of Hearings and Appeals**

In the Matter of: Personnel Security Hearing)	
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Filing Date: January 18, 2024)	Case No.: PSH-24-0046
)	
_____)	

Issued: May 8, 2024

Administrative Judge Decision

Phillip Harmonick, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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."¹ 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 not be restored.

I. BACKGROUND

The Individual is a DOE employee who was first granted access authorization in 1994. *See* Hearing Transcript, OHA Case No. PSH-24-0046 (Tr.) at 51–52 (summarizing the Individual's employment and clearance history). On June 16, 2023, the Individual told a coworker that she had discovered a bullet on her desk and believed that someone was trying to intimidate her. Exhibit (Ex.) 5 at 153.² The coworker reported this information to his supervisor, who relayed it to the protective force at the site. *Id.* Following an investigation, the local security office (LSO) concluded that "it is believed [the Individual] may have introduced the [] bullet," which was "an exact match" to ammunition the Individual purchased for her personal firearm. *Id.* at 143.

The LSO issued the Individual a letter of interrogatory (LOI) concerning the events of June 16, 2023. Ex. 6. The Individual's responses to the LOI did not resolve the LSO's security concerns.

¹ 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.

² The exhibits submitted by DOE were Bates numbered in the upper right corner of each page. This Decision will refer to the Bates numbering when citing to exhibits submitted by DOE.

See Ex. 3 (summarizing the LSO's evaluation of the Individual's eligibility for access authorization). On September 26, 2023, the Individual met with a DOE-contracted psychologist (DOE Psychologist) for a psychological assessment. Ex. 8 at 207. The DOE Psychologist subsequently issued a report (Report) of the psychological assessment in which she concluded that the Individual met sufficient diagnostic criteria for a diagnosis of Paranoid Personality Disorder (PPD) under the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)* and that this condition impaired the Individual's judgment, reliability, and trustworthiness. *Id.* at 218.

On December 14, 2023, the LSO issued the Individual a Notification Letter advising her that it possessed reliable information that created substantial doubt regarding her eligibility for access authorization. Ex. 1 at 7–8. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline I of the Adjudicative Guidelines. *Id.* at 6.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted ten exhibits (Exs. 1–10) and the Individual submitted fourteen exhibits (Ex. A–N). The Individual testified on her own behalf and offered the testimony of two character witnesses and a psychologist (Individual's First Psychologist) who had conducted an assessment of the Individual. Tr. at 3, 17, 33–34, 45, 156. The LSO offered the testimony of the DOE Psychologist. *Id.* at 3, 196.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline I of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. A formal diagnosis of a disorder is not required for there to be a concern under this guideline." Adjudicative Guidelines at ¶ 27. The SSC cited the DOE Psychologist's opinion that the Individual met sufficient diagnostic criteria for a diagnosis of PPD under the *DSM-5*. Ex. 1 at 6. The LSO's citation to the opinion of the DOE Psychologist that the Individual has a condition that may impair her judgment, stability, reliability, or trustworthiness justifies its invocation of Guideline I. Adjudicative Guidelines at ¶ 28(b).

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 Dep't 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 or her eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. FINDINGS OF FACT

The Individual has been employed by DOE since 2015 and had previously held a DOE security clearance since 1994 through her employment with a DOE contractor. Ex. 10 at 273; Ex. C at 26; Tr. at 51–52. The Individual has received “Fully Meets Expectations” performance ratings for each year of her employment with DOE. Ex. D. Several of the Individual’s current and former coworkers hold her in high regard for her competence, knowledge, and professionalism. Ex. E (reflecting a letter of recommendation from a current coworker of the Individual); Ex. F (reflecting a letter of recommendation from a former coworker of the Individual); Tr. at 17–18, 24–25, 28 (reflecting the testimony of a former supervisor of the Individual, who knew the Individual from 1995 to 2004 but had not spoken with her since 2019, that he had observed her demonstrate trustworthiness, reliability, and exemplary performance in the workplace); Tr. at 35, 37, 39 (reflecting the testimony of a coworker of the Individual from 2005 to 2014, who had not spoken to her since 2014, that she was a reliable and trustworthy person). However, in the course of a 2018 reinvestigation of her eligibility for access authorization, several of her former colleagues expressed doubts regarding her judgment and honesty. Ex. 10 at 307 (reflecting the statement of a former supervisor of the Individual to an investigator that the Individual demonstrated “immaturity” and was transferred to another supervisor due to a “misunderstanding over [] processes”); *id.* at 309–10 (containing a summary of another supervisor’s statements to an investigator that he had “reservations” about recommending her for access authorization due to being “gullible and [having] questionable judgment,” as demonstrated by the Individual’s difficulty dealing with conflict, illogical responses to stress, filing grievances against three supervisors, failing to correctly interpret rules, and attempting to coax a wild bobcat into a facility during a storm because she believed it to be a housecat); *id.* at 311 (indicating that a former coworker of the Individual told an investigator about the Individual’s attempt to coax a wild bobcat into a facility and that the Individual “makes issues out of non-issues,” “lacks maturity,” and “misunderstands situations”).³

The Individual was certified in the Human Reliability Program (HRP) from approximately 1994 until 2017 when she was administratively terminated from HRP due to no longer requiring HRP certification. Ex. 8 at 207; Tr. at 72. As part of her participation in HRP, the Individual underwent annual medical and psychological evaluations. Tr. at 57; *see also* Ex. 8 at 231 (indicating that the

³ The Individual testified at the hearing that concerns raised by her former coworkers were inaccurate. Tr. at 113–21, 38–39. As discussed below, I do not find the Individual’s statements in this regard credible. *Infra* p. 12.

Individual underwent a psychological evaluation in 2015 for HRP and was recommended for continued HRP participation with “no indication of psychological or psychiatric issues”).

In April 2023, the Individual contacted her supervisor (Supervisor) to request a promotion. *See* Ex. 5 at 172 (reflecting the Supervisor’s notes of interactions with the Individual from April 2023 to August 2023 prepared in connection with the LSO’s review of the Individual’s eligibility for access authorization). The Supervisor and the Individual’s second-line supervisor (Second-Line Supervisor) decided to deny the Individual’s request because “her duties and performance were below expectations to justify a promotion . . .” *Id.* On May 24, 2023, the Supervisor and Second-Line Supervisor conducted the Individual’s mid-year performance assessment in which the Supervisor “indicated areas of needed performance improvement . . .”⁴ *Id.* at 173. The Supervisor and Second-Line Supervisor perceived that the Individual was “noticeably upset” and “refused to accept any of the feedback.” *Id.* at 173, 180.

On the morning of June 16, 2023, the Individual approached a coworker and told him that she had found a bullet on her desk. Ex. 5 at 158 (containing a witness statement from the coworker). After returning with the Individual to her desk and observing the bullet, the coworker contacted his supervisor who relayed the information to the protective force at the site. *Id.* While waiting for the protective force to arrive, the Individual speculated to the coworker that someone might be “trying to intimidate her” and noted that “she was having a conflict with her first level supervision on a midyear performance review.” *Id.*; *but see* Tr. at 55 (wherein the Individual testified that a member of the protective force told her that the bullet “could be workplace violence” and that she only suggested the Supervisor might be responsible for the bullet after the coworker told her to write down names of persons who “might have ill will toward [her]”).⁵ After the protective force arrived and questioned the Individual, she again stated that she was “in a conflict” with the Supervisor. Ex. 5 at 158. The Individual represented to the protective force that she had worked in her office that morning before leaving for a fifteen-to-twenty-minute break, and that she discovered the bullet on her desk upon returning from the break. *Id.* at 142.

On June 20, 2023, the LSO interviewed the Individual concerning the events of June 16th. *Id.* During the interview, the Individual identified several people who “she said could be setting her up” including “[her] supervision, a Protective Force Officer, previous co-workers at [another DOE site] (from eight years prior), and her own sister (living in [another state]).” *Id.*; *see also id.* at 174 (indicating that the Supervisor was travelling in another state on June 16, 2023). The LSO asked the Individual whether she owned firearms and, when she confirmed that she did, inquired as to the caliber of the firearms. Ex. 5 at 142. According to the LSO, the Individual “became visibly nervous” in response to these questions and “stated she needed to go home to confirm what type of bullets she uses.” *Id.* Later that day, the Individual provided photos of the bullets she uses for her firearm. *Id.* at 165, 68–69. The LSO concluded that the bullets pictured in the photos sent by

⁴ One issue raised by the Supervisor – observations of the Individual engaging in “yelling outbursts” – was removed from the Individual’s mid-year assessment after the Individual disputed the allegation and the Supervisor withdrew the comment because he “should have addressed [the behavior] on the spot . . .” *Compare* Ex. M *with* Ex. N; *see also* Ex. 5 at 173 (indicating the Supervisor’s reasoning for withdrawing the comment regarding the Individual yelling in the workplace).

⁵ For the reasons discussed below, I find the information collected by the LSO in its investigation of the incident more credible than the Individual’s account of the incident. *Infra* p. 12.

the Individual “were an exact match to the single round of . . . ammunition found on her desk.” *Id.* at 143.

Personnel at the DOE site subsequently reviewed badge swipe data and interviewed witnesses. *Id.* at 143. On or about July 24, 2023, the investigation concluded, and the investigators prepared a summary of their findings in which they determined that “[t]here was no reason to believe . . . that anyone entered [the Individual’s] office on 06/16/23 prior to the discovery of the [bullet] . . . [and] it is believed [the Individual] may have introduced the [] bullet.” *Id.* at 141, 43.

Following the events of June 16th, the Individual teleworked from her home for one week. *Id.* at 174–75, 81. The Individual returned to work at the DOE site on June 26, 2023, and worked without raising any safety-related concerns to her management for several weeks. *Id.* at 175, 81. On August 2, 2023, the Individual contacted a member of human resources and inquired as to whether it would be permissible for her to wear a bulletproof vest at the DOE site.⁶ *Id.* at 171. The Individual indicated that she was afraid for her safety because the person who placed the bullet on her desk had not been identified, noted a recent mass shooting, and said that “she was concerned because individuals are out there seeking their 15 minutes of fame.” *Id.*

At the recommendation of the human resources employee, the Individual contacted an individual with responsibility for safety at the DOE site (Safety Employee). *Id.* The Individual reiterated her request to wear a bulletproof vest at the DOE site to the Safety Employee and said that “she is still afraid and she thinks that everyone that walks pas[t] her office is out to get her.” *Id.* at 170; *but see* Tr. at 104–05 (testifying that she did not make this statement).⁷ The next day, the Safety Employee advised the Individual that she would need to report the Individual’s request. Ex. 5 at 170. The Individual asked the Safety Employee not to report her request, stated that she would tell the Supervisor when he returned to the office, and that “she didn’t want the front office to know [of her request].” *Id.* The Safety Employee escalated the Individual’s request to the Safety Employee’s management, who advised the Second-Line Supervisor. *Id.* at 181–82. On August 7, 2023, the Individual was directed to start teleworking on a full-time basis. *Id.* at 177; *see also id.* at 182 (indicating that the Second-Line Supervisor believed that “we needed to protect the workforce from her”).

On or about August 23, 2023, the LSO issued the Individual the LOI. Ex. 6. On August 24, 2023, the Individual e-mailed the Supervisor to request that the LOI be “vacate[d].” Ex. 7 at 193. The Individual explained that she believed that she should not be required to respond to the LOI because it “circumvented every manager in [her] chain-of-command” and was “not consistent with the sacred supervisor/employee relationship that ensures a fair and open due process for subordinate employees.” *Id.* at 193–94. After the Supervisor advised the Individual that he could not interfere with the LSO’s adjudication of the Individual’s eligibility for access authorization, the Individual submitted her response to the LOI. *Id.* at 195; Ex. 6.

⁶ At the hearing, the Individual represented that her request was to wear bullet-resistant clothing and not a tactical bulletproof vest. Tr. at 54, 143. The Individual acknowledged, however, that the purpose of the request was to protect herself from a bullet. *Id.* at 143. Moreover, the Individual herself referred to the request as to wear a bulletproof vest at some points during her testimony. *Id.* at 108. Thus, I do not assign any significance to the Individual’s claim that she was seeking to wear non-tactical equipment for protection.

⁷ As discussed below, I do not credit the Individual’s claim not to have made this statement. *Infra* p. 12.

The Individual met with the DOE Psychologist for a psychological assessment on September 26, 2023. Ex. 8 at 207. The DOE Psychologist conducted a clinical interview of the Individual and administered the Minnesota Multiphasic Personality Inventory-3 (MMPI-3). *Id.* The DOE Psychologist also reviewed the Individual's personnel security file. *Id.*

The Individual's responses to the MMPI-3's substantive scales presented no elevations indicative of dysfunction. *Id.* at 213, 25–26. However, in her responses to the MMPI-3, the Individual denied “some minor faults and shortcomings that most people acknowledge.” *Id.* at 213. These responses produced an elevation of the “K” validity scale, which measures whether respondents to the MMPI-3 are reporting significantly better or worse social adjustment than would be expected. *Id.* at 213, 220. According to the DOE Psychologist, the Individual's elevated score on the “K” validity scale indicated that the Individual's other responses to the MMPI-3 were “likely distorted by favorable self-portrayal through a tendency of under-reporting.” *Id.* at 213.

On October 9, 2023, the DOE Psychologist issued her Report. *Id.* at 218. In the Report, the DOE Psychologist opined that the Individual met sufficient diagnostic criteria for a diagnosis of PPD under the *DSM-5*. *Id.* The *DSM-5* lists the following as the diagnostic criteria for PPD:

- A. A pervasive distrust and suspiciousness of others such that their motives are interpreted as malevolent, beginning by early adulthood and present in a variety of contexts, as indicated by four (or more) of the following:
 - 1. Suspects, without sufficient basis, that others are exploiting, harming, or deceiving him or her.
 - 2. Preoccupied with unjustified doubts about the loyalty or trustworthiness of friends or associates.
 - 3. Is reluctant to confide in others because of unwarranted fear that the information will be used maliciously against him or her.
 - 4. Reads hidden demeaning or threatening meanings into benign remarks or events.
 - 5. Persistently bears grudges (i.e., is unforgiving of insults, injuries, or slights).
 - 6. Perceives attacks on his or her character or reputation that are not apparent to others and is quick to react angrily or to counterattack.
 - 7. Has recurrent suspicions, without justification, regarding fidelity of spouse or sexual partner.
- B. Does not occur exclusively during the course of schizophrenia, a bipolar disorder or depressive disorder with psychotic features, or another psychotic disorder and is not attributable to the physiological effects of another medical condition.

AM. PSYCHIATRIC ASS'N, DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS 649 (5th ed. 2013). In her Report, the DOE Psychologist concluded that the Individual met the first, second, third, fourth, and sixth diagnostic criteria for PPD. Ex. 8 at 216. In support of her conclusion, the DOE Psychologist cited the Individual's rapid changes of emotion from “present[ing] as fine” to “hyperventilating and crying” within minutes, withdrawal from others and preference for being alone, belief that the Supervisor's comments on the mid-term

evaluation were indicative of malicious intent, belief that the LOI violated a “sacred relationship,” feelings of mistreatment and persecution, statements regarding being bullied, grandiose statements regarding her abilities and feelings that disagreement from supervisors constituted attacks, and “persecutory delusions” regarding the bullet incident.⁸ *Id.* at 215–16.

The DOE Psychologist concluded that the prognosis for persons with PPD “is generally poor given that individuals with a paranoid style do not typically cooperate with treatment given their unwillingness to confide in and trust the treatment provider nor do they see the need for treatment as they do not see themselves as having a problem or needing help.” *Id.* at 218.

On January 11, 2024, the Individual met with the Individual’s First Psychologist for a psychological assessment in connection with this proceeding. Ex. H at 45. Following the psychological assessment, the Individual’s First Psychologist prepared the results of the assessment (First Psychologist’s Report). The Individual’s First Psychologist accepted the Individual’s representation that “[t]here were no problems of any significance at work until accusations about her behavior . . . [and that] [i]n May 2023 things were going well.” *Id.* at 46. He also noted that the bullet incident was “a potentially life threatening situation, one that directly implicates a threat of violence.” *Id.* The Individual’s First Psychologist concluded that he believed that the Individual experienced “an acute stress reaction” following the events of June 16th and that she did not have any psychological condition that could impair her judgment, reliability, or trustworthiness. *Id.* at 47–48.

The Individual’s First Psychologist opined that the DOE Psychologist’s diagnosis of PPD was inappropriate for three reasons. First, the Individual’s First Psychologist asserted that the DOE Psychologist failed to establish a history of impairment to the Individual’s life necessary to support a diagnosis of PPD, and instead relied on recent workplace issues. *Id.* at 48. Second, he opined that the Individual did not currently meet any of the diagnostic criteria for PPD. *Id.* Finally, the Individual’s First Psychologist asserted that the DOE Psychologist had incorrectly interpreted the results of the MMPI-3 and that the results were inconsistent with the profile of a person experiencing PPD. *Id.*; *see also* Tr. at 160 (testifying at the hearing that he was unsure how the DOE Psychologist could have inferred that the MMPI-3 provided evidence of PPD given that the scales noted by the DOE Psychologist in her Report were not sufficiently elevated to be clinically significant).

In February 2024, the Individual met with another psychologist (Individual’s Second Psychologist) for another psychological evaluation in connection with this proceeding. Ex. I at 50. The Individual’s Second Psychologist administered numerous psychological tests, none of which indicated any significant evidence of psychological dysfunction. *Id.* at 52. The Individual’s Second Psychologist also conducted a clinical interview of the Individual. *Id.* at 50. The Individual’s Second Psychologist found the Individual’s presentation to have been “rational, cognitively sharp, cooperative, direct, and focused,” except when describing events from April 2023 to December 2023. *Id.* at 51. When discussing events that occurred during

⁸ During the hearing, the Individual represented that numerous supporting facts cited by the DOE Psychologist in the Report were not accurate. Tr. at 59–62. For the reasons discussed below, I do not find the Individual’s claims concerning the inaccuracy of information collected during the adjudication of her eligibility for access authorization to be credible. *Infra* p. 12.

that period, the Individual's Second Psychologist found her to be "stressed and not confident but still insistent on finding threatening and conspiratorial explanations" *Id.* The Individual's Second Psychologist also gathered information regarding the Individual's "incidents with previous supervisors and managers" that contradicted the Individual's claims in the clinical interview concerning prior supervisors' and manager's satisfaction with her workplace conduct. *Id.*

The Individual's Second Psychologist issued a report (Second Psychologist's Report) on March 12, 2024. *Id.* at 52. In the Second Psychologist's Report, he indicated that PPD is "characterized by pervasiveness" and that it was "impossible to diagnos[e] any personality disorder, including [PPD]," without "a history that was apparently unavailable in the [DOE Psychologist's] evaluation and unavailable to [him]." *Id.* at 50, 52. The Individual's Second Psychologist diagnosed the Individual with an unspecified anxiety disorder "with episodic exacerbation," and an obsessive compulsive neurosis characterized by "over-functioning on tasks and unhealthy focus on perfection that can interfere with tasks requiring flexibility." *Id.* at 52.

The Individual testified at the hearing that she did not currently feel that anyone was "out to harm [her]." Tr. at 65. She also testified that she feels that she can confide in others. *Id.* at 66. She reiterated her denial that she had placed the bullet on her desk. *Id.* at 133. She also testified that she "thought the probable cause for the bullet was [the Supervisor] . . . [but she didn't] have facts to prove it." *Id.* at 145.

In his hearing testimony, the Individual's First Psychologist reaffirmed his opinion that the Individual did not have any psychological condition that impaired her judgment, reliability, or trustworthiness. *Id.* at 166–67, 94. He testified that the only test he administered to the Individual during his clinical interview was the Mini-Mental State Examination (MMSE), which evaluates memory and cognitive functioning, in order to rule out significant cognitive impairments such as dementia and hallucinations. *Id.* at 163, 75–76. He indicated that the only documents he reviewed prior to preparing the First Psychologist's Report were the SSC and Report and that other documentation provided to him by the Individual was "too lengthy to look at." *Id.* at 173, 78–79. He indicated that he had assumed that the Individual had not intentionally placed the bullet in her office and that "if [he] had good reason to suspect that she had done it intentionally, that would have greatly changed [his] interview approach." *Id.* at 191–93.

The DOE Psychologist testified that her diagnosis of the Individual with PPD was unchanged as of the hearing. *Id.* at 199. The DOE Psychologist testified at length concerning the Individual's unusually high level of defensiveness in the clinical interview and indicated that this defensiveness affected her ability to develop a robust history of the Individual. *Id.* at 206–14, 19–21, 65–67. The DOE Psychologist also opined that the Individual's testimony, which the DOE Psychologist characterized as "switching from one topic to the other[] and quite tangential," was indicative of disorganized thinking. *Id.* at 200. The DOE Psychologist further noted as unusual the Individual's "repetition of [] a *verbatim* response" in her testimony when describing her anxiety and the circumstances surrounding the bullet incident. *Id.*

The DOE Psychologist opined that the Individual demonstrated poor insight, noting the numerous instances in which the Individual denied the accuracy of colleagues' accounts of her poor judgment, untrustworthiness, or lack of reliability without acknowledging the possibility that these concerns could have merit. *Id.* at 222. She further opined that the Individual's prognosis was poor in light of the Individual's failure to pursue treatment and the general lack of willingness of persons with PPD to submit to treatment. *Id.* at 228–30.

The DOE Psychologist acknowledged that she lacked information concerning the Individual prior to her thirties that could establish the presence or absence of symptoms of PPD. *Id.* at 241, 45–46, 71. She further acknowledged that the Individual probably placed the bullet on her own desk, perhaps after accidentally bringing it into the facility in her purse, and that if the Individual had done so that “it would change things” and that her behaviors following June 16, 2023, “could be consistent with another possible condition.” *Id.* at 262–63. She represented that she was “90 percent confident” in the accuracy of her diagnosis of the Individual with PPD but indicated that even if she was mistaken that the Individual would certainly meet sufficient diagnostic criteria for another personality disorder. *Id.* at 258.

V. ANALYSIS

Conditions that could mitigate security concerns under Guideline I include:

- (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;
- (c) recent opinion by a duly qualified mental health professional employed by, or acceptable to and approved by, the U.S. Government that an individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation;
- (d) the past psychological/psychiatric condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability;
- (e) there is no indication of a current problem.

Adjudicative Guidelines at ¶ 29.

The first two mitigating conditions are inapplicable to the facts of this case because the Individual has not received any form of counseling or treatment for a condition related to the symptoms that gave rise to the DOE Psychologist's diagnosis. The Individual's First and Second Psychologist performed clinical evaluations to opine on the Individual's psychological well-being but did not provide her with treatment. As the Individual has not brought forth evidence of treatment, she has not established the applicability of the first two mitigating conditions. *Id.* at ¶ 29(a)–(b).

The remaining three mitigating conditions concern the existence and status of a psychological condition and the extent to which it presents a current problem. The DOE Psychologist reaffirmed her diagnosis of the Individual with PPD in the hearing and that this condition impairs the Individual's judgment, reliability, or trustworthiness. The Individual's First Psychologist testified that the DOE Psychologist's diagnosis was inaccurate, and that the Individual did not have any psychological condition that could impair her judgment, reliability, or trustworthiness.

I am not fully convinced of the accuracy of the DOE Psychologist's diagnosis for two reasons. First, as indicated by the Individual's First Psychologist, a diagnosis of PPD under the *DSM-5* requires the presence of symptoms by early adulthood. The DOE Psychologist admitted that she has no evidence of the Individual having displayed symptoms of PPD until she was in her thirties. While the limited nature of psychological evaluations in the adjudication of clearance eligibility and the Individual's defensiveness in the clinical interview may well have presented barriers to the DOE Psychologist collecting an adequate history of the Individual, the DOE Psychologist relied on extrapolation from more recent events to inform her diagnosis rather than an established history of symptoms in the Individual's early adulthood. Moreover, the Individual participated in HRP for decades, including undergoing periodic psychological evaluations, without any indication that symptoms of PPD were detected. These facts weigh against the DOE Psychologist's diagnosis.

Additionally, I am skeptical that the Individual's recent behavior in connection with the bullet she reported finding in her office supports the DOE Psychologist's diagnosis. The investigation of the event concluded that the Individual was likely responsible for introducing the bullet to her workspace. I find that conclusion likely to be true in light of the Individual's conflict with the Supervisor shortly before reporting finding the bullet, her efforts to assign blame for the event to her Supervisor during the investigation and hearing testimony, her possessing identical ammunition to the bullet recovered from her desk, and the investigatory findings concerning the lack of presence of anyone with any discernible motive for placing the bullet on the Individual's desk on June 16, 2023. As the DOE Psychologist admitted in her testimony, if the Individual knew that she was the source of the bullet then her subsequent behaviors would have been deceptive and not consistent with the diagnostic criteria for PPD. Removing the Individual's behaviors related to the bullet further weakens the support for the DOE Psychologist's diagnosis.

Despite these issues, the DOE Psychologist cited significant concerns raised by the Individual's presentation that could support a diagnosis of a personality condition other than PPD. I am convinced by the DOE Psychologist's opinion that the Individual has a condition that could impair her judgment, stability, reliability, or trustworthiness, which continues to present security concerns whether or not the diagnosis of PPD is accurate.

On the other hand, I am unconvinced by the opinion of the Individual's First Psychologist. The Individual's First Psychologist did not review any documentation related to this matter excepting the SSC and Report, did not perform any substantive psychological testing, and seemed to have uncritically accepted the Individual's self-reported history. While the Individual's First Psychologist raised valid points to undermine the DOE Psychologist's diagnosis of PPD, he did not take reasonable steps to establish that the Individual was psychologically healthy and that her judgment, reliability, or trustworthiness were not being affected by another condition. By his own

admission, the Individual's First Psychologist would have conducted the clinical interview differently if he believed that the Individual had intentionally introduced the bullet. In light of the cursory, uncritical approach of the Individual's First Psychologist to conducting his evaluation, and especially his failure to explore the potential implications of the Individual having reported fears to her safety in connection with the bullet despite knowing that it was hers, I find the Individual's First Psychologist's opinion unconvincing.

While the Individual's Second Psychologist appears to have been more thorough in conducting psychological testing and exploring the issue of the bullet, there are significant unanswered questions raised by his report. By his own admission, the Individual's Second Psychologist did not collect an adequate history of the Individual to identify or rule out a diagnosis of a personality disorder. Moreover, the Individual's Second Psychologist collected information from the LSO that led him to conclude that the Individual made inaccurate claims during his clinical interview, but he did not further explore these issues or opine on how they affected his clinical opinion. Additionally, the Individual's Second Psychologist found clinically significant signs of distress or impairment when the Individual was describing the performance review and bullet incident and noted that her statements on the matters were conspiratorial, but failed to explain why he found that these symptoms were better explained as episodic anxiety than indications of a more serious condition. In light of the lack of information on the Second Psychologist's approach and conclusions, I am not convinced that his opinion establishes that the Individual is free from psychological conditions that could impair her judgment, stability, reliability, or trustworthiness.

In weighing the conflicting opinions from the psychologists, none of which is fully convincing, I have been guided by the factors set forth in Part 710, commonly referred to as the "whole person concept." 10 C.F.R. § 710.7(c). The nature, extent, and seriousness of the Individual's conduct, and the circumstances surrounding the conduct, present extremely serious security concerns. The investigation of this incident indicates that the Individual likely was the source of the bullet in her office, after which she sought to implicate the Supervisor as responsible for the conduct, repeatedly alleged that she feared for her life, and requested to wear a bulletproof vest in the workplace in a conversation in which she mentioned a mass shooting incident. Ultimately, the Second-Level Supervisor concluded that it was necessary to protect the workforce at the DOE site from the Individual by physically separating her via telework.

The Individual has cited her lengthy clearance history without incident as evidence that weighs in her favor when applying the whole person concept. To the contrary, for a person of the Individual's age and maturity, with such substantial experience as a participant in HRP and as a security clearance holder to behave as she did in connection with this incident weighs extremely heavily against her in the application of the whole person concept. The Individual also asserts that the bullet incident was an isolated occurrence which is unlikely to recur. Rather, this incident appears to be the latest in a pattern of the Individual experiencing conflict with a supervisor that calls into question her judgment, trustworthiness, and reliability.

The Individual asserted during the hearing that numerous statements by colleagues made in connection with the 2018 reinvestigation of her eligibility for access authorization and the investigation of the bullet incident were untrue. I find it highly improbable that so many of the Individual's colleagues have falsely identified instances in which the Individual displayed a lack

of judgment, reliability, or trustworthiness. Instead, I think it is more probable that the Individual is not a credible source of information concerning her behavior. To that end, the DOE Psychologist opined that the Individual displayed signs of disordered thinking during her hearing testimony. I agree with the DOE Psychologist, and believe it noteworthy that, in addition to displaying a high degree of emotionality and rocking back and forth in her chair for portions of her testimony, the Individual repeated portions of her testimony nearly *verbatim* numerous times despite the testimony at times being incongruous to the questions she was asked.⁹ In sum, the Individual demonstrated a lack of credibility and signs of unusual behavior that lead me to believe that she is likely to demonstrate a lack of judgment, reliability, and trustworthiness in the future.

In adjudicating eligibility for access authorization, “doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security.” 10 C.F.R. § 710.7(a). I find that none of the psychologists’ opinions are fully convincing, and that the shortcomings of the opinions of the Individual’s First and Second Psychologists make them insufficient to overcome the concerns presented by the DOE Psychologist’s opinion. Applying the considerations raised under the whole person standard, I find that any doubts raised as to the Individual having a psychological condition that could impair her judgment, reliability, and trustworthiness fall far short of establishing the applicability of the third, fourth, and fifth mitigating conditions under Guideline I. Adjudicative Guidelines at ¶ 29(c)–(e).

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline I of the Adjudicative Guidelines. After considering all the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns set forth in the Summary of Security Concerns. Accordingly, I have determined that the Individual’s access authorization should not be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals

⁹ For example, the Individual stated seven times during her testimony in nearly identical language that finding the bullet was “unprecedented” and that she was “not trained” to handle the situation. Tr. at 53, 63, 67, 70, 72, 94, 152.