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United States Department of Energy
Office of Hearings and Appeals

In the Matter of: Personnel Security Hearing

Filing Date: February 2, 2024

Case No.: PSH-24-0056

Issued: June 20, 2024

Administrative Judge Decision

James P. Thompson III, 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 employed by a DOE contractor in a position that requires possession of a security clearance. In March 2023, the DOE Local Security Office (LSO) learned from the Individual that he had been arrested and charged with misdemeanor battery and misdemeanor resisting arrest after consuming alcohol. Subsequently, the LSO requested that the Individual be evaluated by a DOE-consultant psychiatrist (DOE Psychiatrist). Thereafter, the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guidelines G and J of the Adjudicative Guidelines.

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

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.

hearing. At the hearing, the Individual presented the testimony of three witnesses and testified on her own behalf. The LSO presented the testimony of the DOE Psychiatrist. The Individual submitted twenty exhibits, marked Exhibits A through T.² The LSO submitted fourteen exhibits, marked Exhibits 1 through 14.³

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated above, the LSO cited Guideline G (Alcohol Consumption) and Guideline J (Criminal Conduct) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility to possess a security clearance. Exhibit (Ex.) 1 at 5.

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 . . . fighting, child or spouse abuse, disturbing the peace, or other incidents of concern, . . .” 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 SSC cited the following information. The DOE Psychiatrist reported in August 2023, that the Individual met the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, criteria for Alcohol Use Disorder (AUD), moderate severity, without adequate evidence of rehabilitation or reformation. Ex. 1 at 5. In March 2023, the Individual was charged with Domestic Violence⁴ and Resisting Arrest, during which he was restrained on a gurney due being extremely intoxicated and agitated. *Id.* Lastly, in June 2015, he was in an alcohol-related incident that required paramedics to take him to the hospital; it was recommended that he stop consuming alcohol indefinitely, and he continued to consume alcohol. *Id.* The cited information justifies the LSO’s invocation of Guideline G.

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, but not limited to, a credible allegation, an admission, and matters of official record) of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(b). The SSC recited the March 2023 arrest and charges cited under Guideline G and further cited that, during the incident, the Individual pushed, grabbed, threw water at, and slapped his spouse; officers had to use force to restrain him and overpower his resistance; and, as a result, a protective order was issued against the Individual. Ex. 1 at 5. The cited information justifies the LSO’s invocation of Guideline J.

² Exhibits A through R are included in the LSO’s exhibit book within Exhibit 2. Therefore, with respect to those exhibits, this Decision will cite to the appropriate letter and Bates number of the page in the LSO exhibit book.

³ References to the LSO exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

⁴ Alternatively, the court and police records refer to the charge as Misdemeanor Battery and Domestic Battery. *Compare* Ex. G at 41 *with* Ex. H at 66. This is a distinction without a difference for the purposes of this decision.

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.* § 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

The record includes a 2015 Questionnaire for National Security Positions (QNSP) in which the Individual disclosed that, in June 2015, he consumed alcohol and got into a verbal altercation with his fiancé⁵ that became so intense he left in a manner that concerned his fiancé and prompted her to contact the police, who in turn contacted paramedics to evaluate the Individual. Ex. 12 at 230. As a result, the Individual was taken to a hospital where he was briefly evaluated by a psychologist who recommended that he "stop consuming alcohol indefinitely." *Id.* Then, in 2018, the Individual met with a DOE-consultant psychologist. Ex. 10. The Individual reported during the 2018 evaluation that from 2008 to 2013 he would consume a bottle of wine in one sitting twice a week. *Id.* at 184. He stated that he consumed alcohol at this time to "cope with depression following a break-up." *Id.* He also reported that his fiancé, who was his wife at the time of the 2018 evaluation, had previously asked him to completely stop consuming alcohol in 2013, which he did for a while before consuming alcohol again while hiding it. *Id.* at 184; Ex. 8 at 159. He also reported his history of periodic alcohol use during the period between 2014 and 2017 as consuming "half of a 750ml bottle of whiskey or 1.5 bottles of wine in a two- to three-hour period [and] becoming intoxicated." Ex. 10 at 184. He also reported that, on one occasion in 2014, he consumed "an unrecalled amount of beer," which led to his fiancé "threaten[ing] to leave him[.]" which was

⁵ Throughout this decision, mentions of the Individual's fiancé, ex-wife, and wife all refer to the same individual.

“extremely distressing” and prompted his fiancé to call the police out of fear the Individual “might harm himself”⁶ *Id.* at 186.

Leading up to the 2018 evaluation, he reported attending marital therapy and reducing his alcohol consumption to two to three twelve-ounce beers approximately two or three times per week. *Id.* at 184. The record includes the results of a “rating scale of alcohol and substance use and abuse,” entitled SASSI-3, administered to the Individual during the 2018 evaluation, which the psychologist concluded was positive for Substance Use Disorder. *Id.* at 188. The Individual told the psychologist that he, due to marital counseling and recognizing his problematic use of alcohol to self-medicate, “ha[d] worked out a better understanding with his wife” and their progress “obviate[d] his need to use alcohol for management of anxiety and other difficult emotions.” *Id.* at 189. The psychologist concluded that the Individual had a history of using alcohol to manage his emotional state, but he had since stopped using it for that purpose; as a result, the psychologist diagnosed the Individual as having AUD in remission. *Id.* at 188–89.

Several years later, in March 2023, the Individual reported to the LSO that he had been arrested at his residence after getting into an altercation with his then-wife and “[breaking] down emotionally.” Ex. 6 at 147. He reported that he had “relapsed” from abstaining from alcohol and had become “hysterical” in response to his wife’s concerning behavior. *Id.* He also reported that when the police attempted to arrest him, he “backpedaled,” which resulted in them throwing him to the ground. *Id.* In April 2023, an investigator interviewed the Individual and recorded that, leading up to the incident, the Individual had been “abusing alcohol every 3–4 months when he would drink a lot to cope and deal with emotions.” Ex. 14 at 443. The Individual is further reported as stating that he intended to “drop drinking altogether” and that he had been seeing a psychologist (Individual’s Psychologist) who recommended he “stop drinking alcohol altogether because of type one diabetes and it increases anxiety.” *Id.*

As a consequence of his arrest, the Individual underwent a psychological evaluation in August 2023 conducted by the DOE Psychiatrist. Ex. 8. The DOE Psychiatrist recorded the following information from the interview, including details regarding the Individual’s history of alcohol use since his last evaluation. On the night of the arrest, the Individual consumed “eight to nine shots of hard alcohol over two hours preceding” the incident. *Id.* at 155. He consumed the alcohol after arguing with his wife over his suspicion, later confirmed, that she had been engaging in infidelity. *Id.* at 155, 157. The couple then began arguing again and he “grabbed her face and told her that she needed to take their marriage more seriously” and “threw water in her face and told her to get out.” *Id.* at 155–56. She “refused to leave and he called the police.” *Id.* at 155. The Individual stated that “he did not grab her as he was accused of” and she “falsely accused him of physical violence.” *Id.* He stated that when he was arrested, “he refused to walk” and the police “dragged him down the stairs.” *Id.* He also said that while in the “holding cell” he was refused an insulin pump and he was consequently “hospitalized due to complications resulting from insulin insufficiency.” *Id.*

The Individual also reported during the evaluation that he had been receiving treatment from the Individual’s Psychologist since 2020 to address relationship stress and mental health conditions

⁶ The Individual was not arrested or detained but instead allowed to “sleep it off.” Ex. 10 at 186.

unrelated to alcohol use. *Id.* at 158 (clarifying that the treatment does not involve discussing alcohol use very often).

Finally, the Individual reported that as a condition of his probation stemming from his 2023 arrest, he had to attend fifty-two weeks of anger management classes, attend Alcoholics Anonymous (AA) meetings two times per week, and document his progress with a treating psychiatrist. *Id.* at 155. He also told the DOE Psychiatrist that he had last consumed alcohol on the night of his arrest in March 2023. *Id.* at 160. However, he changed the date when he was told by the DOE Psychiatrist that laboratory testing would detect alcohol consumed within the preceding thirty days, at which time the Individual reported consuming four alcohol beverages to deal with anxiety on one occasion since his arrest. *Id.* The Individual denied that alcohol had negatively affected his home life, employment, or aspects of his life other than being arrested in March 2023. *Id.* As part of the evaluation, the Individual underwent a Phosphatidylethanol (PEth) test, which can detect alcohol use within several weeks. *Id.* at 162. The test result was positive at a level the DOE Psychiatrist concluded demonstrated alcohol use “more significant than [the Individual] reported.” *Id.*

After considering the Individual’s history of alcohol use in combination with the PEth test results, the DOE Psychiatrist concluded that the Individual met the criteria for Alcohol Use Disorder, Moderate Severity. *Id.* The DOE Psychiatrist opined that the Individual should engage in an “intensive and highly structured alcohol recovery treatment program,” such as an intensive outpatient program (IOP) that meets the American Society of Addictive Medicine standards; attend meetings of substance recovery activities at least three times per week for a minimum of six months, work the “steps of recovery” with a sponsor; and submit to toxicology testing like PEth tests monthly to monitor abstinence. *Id.* at 165.

At the hearing, the Individual testified that he had a history of using alcohol to deal with emotional and physical pain that resulted from his diabetes. Hearing Transcript, OHA Case No. PSH-24-0056 (Tr.) at 23–24. He also testified that if his blood sugar is too low, he will experience hyperglycemia during which he can experience severe confusion, become irritable, and experience severe pain. *Id.* at 25. Left untreated, hyperglycemia can result in passing out and death. *Id.* He testified that an issue with his insulin pump could result in an episode of hyperglycemia, and he has been mistaken for being intoxicated in the past due to his condition. *Id.* at 26.

The Individual testified that he met his now ex-wife in 2011. *Id.* at 28. He said she had an extreme view of alcohol use. *Id.* at 30. For example, she referred to him as an alcoholic after observing him get drunk at his birthday party only a few months into their relationship, and she gave him an ultimatum at that time to stop consuming alcohol. *Id.* at 30. In response, the Individual hid his consumption. *Id.* at 32. He and his ex-wife argued regularly about his alcohol use. *Id.* at 32–33. He testified that she was very controlling and manipulative, which only increased once they began living together. *Id.* at 33. He testified that he consumed alcohol to cope with the relationship. *Id.* at 35, 37.

As for the March 2023 incident, the Individual testified that he was in a very emotionally charged state, essentially pleading with his spouse to be faithful in their relationship. *Id.* at 46–47. He testified that he called the police that night after he asked his wife to leave due to concerns for his safety. *Id.* at 48; *see id.* at 45 (testifying that his ex-wife was “open about her prior ex-husband and

thoughts about killing him” and that he was therefore concerned that “if she . . . hated [the Individual] too, . . . she could potentially find a means to poison [him] or do something else”). He said that the police entered the home and asked him to come downstairs, which he refused due to being upset and not feeling safe, and the police officers came upstairs and placed him in handcuffs immediately. *Id.* at 51–52. The Individual testified that he did not want to leave his home, he did not feel safe, and he “didn’t know what was going on,” but they picked him up and took him outside and threw him on the ground. *Id.* at 53. He testified that he believed he was experiencing hypoglycemia at the time of his arrest, which can make him irritable and affect his judgement. *Id.* at 53–54.

The Individual testified that as a result of the criminal case, he was able to participate in a diversion program that required he “[attend] two AA classes a week, [attend] [Domestic Violence (DV)] classes once a week, and continue to see [his] therapist” for a year, which he completed. *Id.* at 56. As of January 9, 2024, he is no longer under the court’s jurisdiction. *Id.* at 57; Ex. H at 67 (court records indicating the case was dismissed early due to “substantial compliance” despite the prosecution’s objection). Signed, handwritten attendance records provided by the Individual indicate that he attended AA several times a month from March 2023 through November 2023. Ex. K at 90–103. He testified he stopped attending AA on January 9, 2024, because he “did not feel it was the right direction[,]” and he instead needed to work on the “root cause in trauma and anxiety” and started seeing a psychologist who specializes in trauma as opposed to alcohol use. Tr. at 69. The Individual believes that he used alcohol as a coping mechanism to deal with the trauma caused by his relationship with his ex-wife. *Id.* at 70–71. The Individual now copes with that issue by separating himself from his ex-wife to the greatest extent possible and focusing on not involving or inserting himself in any drama. *Id.* at 72, 74. He testified that his longest period of intentional abstinence was a year, which he “think[s] [] was associated to some drama with [his] ex-wife” although he could not recall the “specific circumstances” *Id.* at 76. He testified that they must still correspond due to having a child together, but he does not “engage in her trying to trigger [him] anymore.” *Id.* at 40.

The Individual testified that he believed he used to have a problem with alcohol until 2019, when still with his ex-wife. *Id.* at 65. Presently, he does not believe he has a problem with alcohol. *Id.* at 66. He believes he can consume alcohol in moderation, and it is only when he becomes intoxicated and cannot manage his insulin pump that his consumption becomes a problem. *Id.* at 93. The Individual testified that he presently consumes alcohol in “minute quantities” socially with his present girlfriend, friends, and father. *Id.* at 39. He testified that he no longer uses alcohol to cope with stress. *Id.* at 40. He testified that, going forward, he intends to limit himself to, at most, two alcoholic beverages a day. *Id.* at 41. He testified that he consumed one beer the night before the hearing, and he was last intoxicated about two months prior to the hearing after consuming three glasses of wine. *Id.* at 66–67. He is not presently attending any counseling focused on his alcohol use. *Id.* at 68. But he is seeing a therapist once a week who specializes in trauma and another therapist every other week through his employer’s Employee Assistance Program focused on coping with trauma. *Id.* at 61.

The Individual testified that the DOE Psychiatrist is biased because the DOE Psychiatrist did not want to “entertain” discussion regarding the Individual’s ex-wife’s involvement and trauma as it related to his arrest during the 2023 evaluation. *Id.* at 60. The Individual denied that he had been

hospitalized as a result of alcohol consumption and believed that he had been hospitalized as a result of dealing with his ex-wife and his diabetes. *See, e.g., id.* at 88 (stating that the 2014 incident “was not related to alcohol. It was related to . . . one of [his] ex-wife’s ultimatum[s].”); *id.* at 91 (stating that his 2015 hospitalization after consuming alcohol was because his fiancé sought medical attention for the Individual because “she cannot take care of [him], from a medical standpoint, so she didn’t want [him] to die . . .”). However, he did concede that he would have probably made different decisions if he had been “completely sober.” *Id.* at 88. He also testified that he would have been more “shrewd” and gone “to a hotel room” if he had not consumed alcohol during the March 2023 incident. *Id.* at 110. He testified that the Individual’s Psychologist recommended that the Individual “stay away from [alcohol]” during the litigation related to his 2023 arrest and “work on better coping mechanisms before [he] resumed.” *Id.* at 114. He, however, did not follow that recommendation, which led to the positive PEth test during the evaluation. *Id.*

The Individual’s father testified that the Individual is “much more balanced” and in a “much better place” after divorcing his ex-wife. *Id.* at 134. The father also testified that the Individual recognized the error in using “alcohol to cope with extreme emotional situations” and has taken action to stop. *Id.* at 138.

The Individual’s work colleague testified that the Individual has always acted responsibly when at social events where the Individual consumed alcohol, and the Individual is calm and creates a positive work environment. *Id.* at 144. The Individual’s friend testified that the Individual consumes alcohol responsibly and in moderation. *Id.* at 152.

After observing the testimony of the other witnesses, the DOE Psychiatrist testified. He first confirmed that the Individual continued to meet the criteria for AUD, Moderate. *Id.* at 173. His conclusion was based on the lack of corroborating laboratory documentation to support the Individual’s reported alcohol use and his opinion that the Individual did not take action consistent with the recommendations provided in the report to address the AUD. *Id.* As a result, the DOE Psychiatrist continued to recommend that the Individual begin a period of documented sobriety for at least six months, opining that the abstinence combined with the previously recommended treatment would provide “an even better prognosis.” *Id.* at 174–75, 206. The DOE Psychiatrist testified that to demonstrate rehabilitation or reformation of AUD, no amount of alcohol is acceptable during recovery. *Id.* at 176. The DOE Psychiatrist explained that consuming alcohol increases the risk of relapse, which means reengaging in problematic alcohol consumption that invokes the criteria for AUD. *Id.* at 201–03. The DOE Psychiatrist also considered the Individual’s explanation for the conduct that implicated the AUD criteria, for example, the unreasonable demands of his ex-wife. *Id.* at 199. The DOE Psychiatrist testified that the Individual’s resistance to accepting that he has a problem with alcohol is a negative factor when considering a prognosis because accepting responsibility or taking ownership for one’s actions around an addiction is a “cardinal feature of recovery.” *Id.* at 176–77. Through accountability, the person is able to understand their problematic behavior and better control it when faced with stressors—rather than relapse. *Id.* at 176–77. The DOE Psychiatrist explained that meeting the criteria means that there are risk factors for continued problematic use. *Id.* at 199.

V. ANALYSIS

A. Guideline G Considerations

Conditions that can mitigate security concerns based on alcohol consumption include the following:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) The 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;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

I conclude that none of the above mitigating conditions apply to resolve the Guideline G security concerns. My finding is informed by the record, including the DOE Psychiatrist's opinion that the Individual presently meets the criteria for AUD, Moderate, without evidence of rehabilitation or reformation. Accordingly, ¶ 23(a) does not apply because that mitigating condition is based on the passage of time, infrequency, or unusual circumstances being such that the concerning conduct is unlikely to occur; and here, as I stated above, the Individual continues to consume alcohol to intoxication, and I find persuasive the DOE Psychiatrist's opinion that the Individual's AUD remains unresolved.

Second, I find that ¶ 23(b) does not apply to resolve the security concerns for the following reasons. First, while the Individual has acknowledged that his alcohol use in the past was problematic in that he used it to cope with the stress related to his tumultuous relationship, he has not acknowledged that he meets the criteria for AUD despite receiving that opinion at least twice: from the DOE-consultant psychologist who evaluated him in 2018 and the DOE Psychiatrist. The record also indicates that the Individual did obtain treatment specifically focused on addressing his alcohol use, and he did not take action in accordance with the treatment recommendations of the DOE Psychiatrist to address his AUD: he did not complete an IOP, he has not remained abstinent, and he did not undergo PEth testing. Furthermore, there is no indication that he received a treatment recommendation that included continuing to consume alcohol at a modified level. In

addition, the record demonstrates he failed to follow the Individual's Psychologist's recommendation that he refrain from consuming alcohol while facing criminal charges. I have considered the evidence that the Individual has excised, to the extent possible, his ex-wife from his life. There is no doubt that in doing so he is less likely to experience the negative aspects of that relationship that he stated triggered his concerning alcohol use. However, removing that trigger alone does not remove my concerns stemming from his unresolved AUD and historical tendency to rely upon alcohol as a coping mechanism. I am also concerned that he does not seem to accept that his past hospitalizations, including on the night of the 2023 arrest, are related to his alcohol use.

Lastly, I find that ¶ 23(c) and ¶ 23(d) do not apply because the Individual is not currently participating in a counseling or treatment program to address his AUD, and he has not successfully completed a treatment program or required aftercare or demonstrated a clear and established pattern of abstinence in accordance with the DOE Psychiatrist's treatment recommendations. As I concluded above, the treatment he is currently receiving is not focused on addressing his AUD.

Accordingly, I conclude that the Individual has not put forth sufficient evidence to resolve the Guideline G security concerns.

B. Guideline J Considerations

Conditions that can mitigate security concerns based on criminal conduct include the following:

- (a) 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;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and
- (d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

I find that none of the above mitigating conditions apply to resolve the Guideline J concerns. Throughout my analysis, I will rely on facts similar to those I relied upon in reaching my above finding that the Individual has not yet resolved his AUD. By his own admission, the Individual would not have taken the actions that led to his March 2023 arrest and charges for battery and resisting arrest had he not been consuming excessive amounts of alcohol. He would have perhaps engaged in better decision-making when interacting with his ex-wife during their argument, and he would have responded differently to the orders of law enforcement. Additionally, to the extent

he blames his behavior on being disoriented due to his diabetic condition, he has been instructed by several professionals that he should not consume alcohol due to this same medical condition. However, despite the above, the Individual still chooses to consume alcohol to intoxication without following those recommendations or engaging in treatment to resolve his AUD.

Accordingly, I find that ¶ 32(a) does not apply to resolve the security concerns for the following reasons. The record reflects that the Individual has not engaged in criminal conduct since his arrest and charge in March 2023, which is over one year prior to the hearing date. The Individual asserts that his behavior was triggered by his controlling and manipulative spouse, and he has excised her from his life to fullest possible extent given his realization that their relationship was problematic. He appears to believe that by removing her he has removed the issue. I have considered that evidence along with the evidence that he has undergone DV classes and successfully completed the terms of his probation. However, those factors are outweighed by the following considerations. The Individual has a history of turning to alcohol when facing difficulty in romantic relationships, which has led to the involvement of law enforcement. The Individual's AUD is not resolved, and there is no dispute his alcohol use contributed to his poor decision-making that led to his criminal charges. Going forward he must still navigate his interactions with his ex-wife as a co-parent and, separately, his present relationship with a new girlfriend. As long as his AUD remains unresolved, I remain concerned that the Individual is at risk for again engaging in criminal conduct because he does not have the tools needed to address any triggers that may arise in the future. I therefore conclude that the concerns are not mitigated by the passage of time or by the frequency of or circumstances surrounding his arrest and criminal charges.

Regarding, ¶ 32(b), I conclude the Individual was not pressured or coerced into committing the acts. His actions were in response to the behavior of his ex-wife and law enforcement, as affected by his consumption of alcohol and his extremely agitated state.

Regarding, ¶ 32(c), I conclude there is reliable evidence that the Individual, at the very least, threw water in his ex-wife's face and placed his hands on her in a manner that led to her statements to law enforcement that resulted in the Individual being arrested.

Finally, Regarding, ¶ 32(d), I conclude that the evidence of rehabilitation including completing the anger management courses and successfully completing his probation does not overcome my remaining concern due to my above reasoning under ¶ 32(a). I cannot conclude that he has demonstrated rehabilitation given that his AUD remains unresolved, and it was a significant contributing factor to his behavior on the night of his arrest.

Accordingly, I conclude that the Individual has not resolved the Guideline J 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 G and Guideline J 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 not brought forth sufficient

evidence to resolve the security concerns set forth in the SSC. 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.

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