

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

In the Matter of: Personnel Security Hearing )  
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Filing Date: July 29, 2024 )  
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Case No.: PSH-24-0161

Issued: January 2, 2025

**Administrative Judge Decision**

Brenda Balzon, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (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 or Eligibility to Hold a Sensitive Position."<sup>1</sup> As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should be restored.

**I. BACKGROUND**

The Individual was granted access authorization in conjunction with his employment with a DOE Contractor. Exhibit (Ex.) 1 at 7.<sup>2</sup> While the Individual was holding the security clearance, on March 18, 2022, police arrested and charged the Individual with Aggravated Driving While Under the Influence of Liquor (DWI), Traffic-Control Signal Legend/Failure to Obey Signal, Careless Driving, and Negligent Use of a Deadly Weapon (Intoxication). Ex. 13 at 84. A breathalyzer test administered to the Individual yielded a result of .20. Ex. 11 at 66.

On January 7, 2024, police arrested and charged Individual with Aggravated DWI (Refuse Testing), Speeding (over 26-30), and No Insurance. Ex. 7 at 31–34. The citation reflected that he performed poorly on standard field sobriety tests; that he had slurred speech and bloodshot, watery eyes; and that there was an odor of alcohol. *Id.* at 31.

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<sup>1</sup> The regulations define access authorization as "an administrative determination that an individual is eligible for access to classified matter or is eligible for access to, or control over, special nuclear material." 10 C.F.R. § 710.5(a). This Decision will refer to such authorization as "access authorization" or "security clearance."

<sup>2</sup> DOE submitted a PDF exhibit notebook with all its exhibits 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.

The Local Security Office (LSO) suspended the Individual's access authorization, and the Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 1 at 7; Ex. 2 at 11–14. 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 twenty exhibits (Ex. 1–20). The Individual submitted five exhibits (Ex. A–E).<sup>3</sup> The Individual testified on his own behalf and offered the testimony of three other witnesses: (1) his father, (2) his sister, and (3) his therapist from an intensive outpatient program (IOP). Transcript of Hearing, OHA Case No. PSH-24-0161 (Tr.) at 3.

## II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline G (Alcohol Consumption) of the Adjudicative Guidelines as a basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "Excessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses[ ] and can raise questions about an individual's reliability and trustworthiness." Adjudicative Guidelines at ¶ 21. In citing Guideline G, the LSO relied upon the 2022 and 2024 DWIs and the related charges. Ex. 1 at 6. The LSO's allegations justify its invocation of Guideline G. Adjudicative Guidelines at ¶ 22(a) (indicating that "alcohol-related incidents away from work, such as driving under the influence" could raise security concerns under Guideline G).

The LSO also cited Guideline J (Criminal Conduct) of the Adjudicative Guidelines as a basis for its substantial doubt regarding the Individual's eligibility for access authorization. Ex. 1 at 6. "Criminal activity creates doubt about a person's judgment, reliability, and trustworthiness[.]" and "[b]y its very nature, it calls into question a person's ability or willingness to comply with laws, rules, and regulations." Adjudicative Guidelines at ¶ 30. In citing Guideline J, the LSO relied upon the same 2022 and 2024 DWIs and related charges. Ex. 1 at 6. The LSO's allegations justify its invocation of Guideline J. Adjudicative Guidelines at ¶ 31(b) (indicating that "evidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted" could raise security concerns under Guideline J).

## III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all 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).

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<sup>3</sup> The Individual submitted Exhibits A through D as a single PDF and Exhibit E as a separate PDF. This Decision cites to the page numbers of Exhibits A through D in the order in which they appear.

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 their 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.

#### **IV. FINDINGS OF FACT**

##### ***a. Individual’s Background, 2022 DWI, and Plea Agreement***

The Individual lives with his father. *Id.* at 35. The Individual’s father and sister testified at the hearing that, aside from the two DWIs, the Individual had not engaged in criminal activity. *Id.* at 37, 61. The Individual’s father described these two DWIs as “two isolated incidents” and that the Individual is otherwise an “exemplary, good citizen” who is generally a “scaredy-cat” who “follows rules and regulations . . .” *Id.* at 39–41.

The Individual testified to first consuming alcohol at 21-years-old. *Id.* at 81. He acknowledged that his drinking became a problem at age 22, ultimately leading to his first DWI in March 2022. *Id.* One night in March 2022, the Individual celebrated both his twenty-third birthday and St. Patrick’s Day with friends at a bar. Ex. 17 at 159. The Individual had not eaten that day and described “‘right away [ ] feeling [ ] buzz[ed]’ after a couple drinks.” *Id.* The Individual later recounted that “his friends were telling him to have a little fun, it’s only one night . . . and the next thin[g] [he] knew [he] was intoxicated[,] and [he] didn’t want to be to that point.” *Id.* (internal quotation marks omitted). That night, the Individual drove his vehicle, and police later arrested and charged the Individual with Aggravated DWI, Traffic-control Signal Legend/Failure to Obey Signal, Careless Driving, and Negligent Use of a Deadly Weapon (Intoxication). Tr. at 81; Ex. 11 at 58; Ex. 12 at 76; Ex. 13 at 84; Ex. 17 at 158. The Individual pled guilty to a DWI charge, while the other related charges were dismissed per a plea agreement. Ex. 10 at 52; Ex. 19 at 204; Tr. at 82.

The plea agreement required 24 hours of community service, DWI school, approximately a year of probation, participation in a Victim Impact Panel, and installation of an interlock into his car for a period of time. Tr. at 82. The Individual described the DWI school and Victim Impact Panel as educational rather than therapeutic. *Id.* He testified that he received no treatment for his alcohol-related issues after this first DWI. *Id.* at 81–82. The Individual further testified to successfully completing the requirements of the plea deal, including no violations of the terms of probation and no interlock violations. *Id.* at 83. He was also required by his employer to complete a six-week alcohol education and awareness program through his employer’s Employee Assistance Program. *Id.* at 102–03; Ex. 15 at 110.

The Individual reported the DWI to the LSO, and the LSO issued the Individual a Letter of Interrogatory, to which he submitted his response in April 2022. Ex. 13 at 83; Ex. 14 at 104. In the response, the Individual admitted to drinking 5 beers and 6 shots prior to the arrest. Ex. 14 at 97.

The LSO also referred the Individual to a DOE-contracted psychologist (First DOE Psychologist) for a psychological evaluation in May 2022, which included, in part, a clinical interview. Ex. 17 at 158–59. In a report prepared after the evaluation, the First DOE Psychologist opined that although the Individual “displayed poor judgment on the night of his [ ] arrest in choosing to drive despite being highly impaired[,]” he had “no basis upon which to find [the Individual] a ‘heavy’ consumer of alcohol, a habitual binge drinker, or a candidate for alcohol use disorder . . . .” Ex. 17 at 161–62.

After the first DWI, the Individual remained abstinent from alcohol until November or December 2023. Ex. 15 at 110. The Individual broke his period of sobriety when he started “hanging out with the wrong people again.” Tr. at 105; *see also* Ex. 15 at 110. The Individual’s father also testified that the Individual had been drinking in social settings with his friends and testified as to his belief that the Individual felt some pressure to drink in those situations. Tr. at 42–43. Similarly, the Individual’s sister also felt that the friends he was spending time with “weren’t looking out for him . . . .” *Id.* at 65.

#### ***b. 2024 DWI and Plea Agreement***

In January 2024, police arrested and charged the Individual with Aggravated DWI, Speeding, and No Insurance. Ex. 7 at 34; Ex. 8 at 40; Tr. at 35, 81. The Individual disclosed that he consumed four shots of liquor over an estimated three-to-four-hour period before driving that evening to pick up fast food for his then-girlfriend. Ex. 8 at 39; Ex. 15 at 109. While the Individual does not believe he was impaired at the time of his second DWI, the Individual acknowledged at the hearing that it was not “a good idea” to drive after he had been drinking. Tr. at 92. The Individual resolved the charges by agreeing to plead guilty to a reduced charge of a simple DWI. *Id.* at 83–84.

The plea agreement required a year of probation, ten days of house confinement, 48 hours of community service, installation of an interlock for a year,<sup>4</sup> and participation in a Victim Impact Panel. *Id.* at 83–84. As of the date of the hearing, the Individual had nine months left of probation, completed the house confinement requirements, completed the Victim Impact Panel, and had completed all but seven-and-a-half hours of the community service requirement. *Id.* at 84–85. Since installation of the interlock in February 2024, the Individual has had no interlock violations.<sup>5</sup> *Id.* at 85. His probationary terms also require alcohol abstinence and random, monthly urinalysis for alcohol consumption. *Id.* at 108–09.

The LSO referred the Individual to another DOE-contracted psychologist (Second DOE Psychologist) for a second psychological evaluation in March 2024. Ex. 15 at 107. After the evaluation, the Second DOE Psychologist opined in his report that “[a]lthough [the Individual] does not meet criteria for a [ ] diagnosis of alcohol use disorder . . . [the Individual] has demonstrated a history of making poor choices when under the influence of alcohol.” *Id.* at 112.

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<sup>4</sup> The Individual installed the interlock in February 2024 prior to entering the agreement requiring him to do so. Tr. at 85.

<sup>5</sup> DOE Counsel stipulated that the fact that the Individual has no probation violations is indicative of the fact that the Individual has not had a positive result on his interlock or urinalysis results. Tr. at 117. DOE Counsel agreed to the stipulation given the difficulty of the Individual securing documents from the probation office and interlock provider. *Id.* at 116–17.

She further opined that the Individual did not “habitually or binge consume alcohol to the point of impaired judgment . . . .” *Id.* at 113.

***c. Individual’s Treatment with the IOP***

The Individual testified that he last drank alcohol on the night of the January 2024 DWI. Tr. at 85; *see also* Ex. 15 (Second DOE Psychologist’s report from March 2024 finding that laboratory test results “were *negative*, which is congruent with his reported abstinence”) (emphasis in original); Ex. C at 7–24 (urinalysis lab results from samples collected on April 25, May 2, May 16, May 23, May 30, and June 27, 2024, testing negative for alcohol). The Individual’s sister also testified that it is her belief that the Individual has not had any alcohol since his second DWI and that she has not observed the Individual drinking alcohol since. Tr. at 59. The Individual’s father testified that, because he sees the Individual daily and is aware of the Individual’s “attitudes and actions” when he does drink, he also believes that the Individual has remained sober since that night. *Id.* at 37–38, 52–53. The Individual testified that it was not hard for him to quit drinking alcohol and that he does not experience cravings for alcohol. *Id.* at 88.

After the second DWI and on his own initiative, the Individual sought out treatment with an IOP. *Id.* at 16 (IOP therapist’s testimony), 44 (Individual’s father’s testimony), 86 (Individual’s testimony). The Individual testified that he heard “a lot of good reviews” about the IOP prior to enrolling, which led him to select it. *Id.* at 94. On February 16, 2024, the Individual had an initial intake appointment with the IOP. Ex. 15 at 111. The IOP assigned the Individual an IOP therapist<sup>6</sup> and began treating the Individual in April 2024. Tr. at 11. The IOP therapist testified that at the outset, the Individual disclosed to her that he was concerned about how his alcohol use resulted in his DWI. *Id.* at 17–18. They also discussed the Individual’s drinking pattern, which the IOP therapist noted as not “constant” but “serious when he did drink.” *Id.* at 18. Based on their conversations, the IOP therapist believed that the Individual had a sense of awareness that he had a problem with alcohol because the Individual’s alcohol use “was affecting his life and his job . . . .” and the Individual “wanted to take care of the problem before it was clear[ly] out of control and [before] he would have required residential treatment.” *Id.* at 20. The IOP therapist diagnosed the Individual with Alcohol Dependence, Uncomplicated. *Id.* at 18; Ex. 15 at 111.

The IOP therapist testified that the IOP’s treatment consisted of weekly individual therapy sessions and monitored group sessions twice per week. Tr. at 11. The topics covered and skills developed in the program include “[c]oping skills, triggers, sober support, recovery, relapse prevention, communication skills, thought processes, emotions, feelings, [and] self-care.” *Id.* at 13. The IOP therapist testified that the Individual made significant therapeutic process during treatment and followed all treatment recommendations *Id.* at 14–15. She rated the Individual’s attendance as “excellent” and noted that the Individual participated “actively.” *Id.* at 13. Specifically, she recounted that the Individual was engaged, focused, and attentive. *Id.* at 14. She described that he was good at self-disclosure in individual sessions and observed that the Individual had been forthright, honest, and candid in his sessions. *Id.* at 14–15.

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<sup>6</sup> The Individual’s IOP therapist testified at the hearing as an expert. Tr. at 3. The IOP therapist is a licensed mental health counselor and licensed substance abuse administrator, who frequently works with individuals with alcohol issues and estimated to having worked with well over a thousand such clients. *Id.* at 11.

Regarding group sessions, she observed that the Individual was not “just go[ing] through the motions[,]” was “applying the work to his life[,]” and “never broke any of the group rules.” *Id.* at 15. As an example, she explained that her patients, prior to group sessions, were given assignments to complete in a workbook. *Id.* at 14. She estimated that the Individual had completed the entire workbook “probably twice.” *Id.* When asked about specific examples of tools that the Individual had applied, the IOP therapist recalled that the Individual had demonstrated “thought stopping” by “figur[ing] out how to stay . . . in the present,” “be[ing] mindful about his choices,” and understanding “that he had options” of handling stress outside of drinking. *Id.* at 21. The IOP therapist recounted that the Individual would bring these issues to the group sessions and “would process them” actively. *Id.* at 25.

From discussions during their one-on-one sessions, the IOP therapist knew that the Individual had opportunities at family functions to consume alcohol, where others were drinking; however, the IOP therapist observed that the Individual in those situations had nothing to drink as evinced by the negative results of his random testing while in the program. *Id.* at 28–29; *see also* Ex. C at 7–24. The IOP therapist also cited to these family functions as an example of “thought stopping.” Tr. at 29. Specifically, they walked through “slowing down [his] thought processes, thinking through to the consequences, and making a choice [ ] once [he had] thought about the consequences . . .” *Id.*

The IOP therapist testified that she had not heard the Individual make any statements indicating that he was struggling with his sobriety. *Id.* at 21. The IOP therapist opined that the Individual “ha[d] not expressed any intention of drinking again” and that he had “a positive outlook on his sober life.” *Id.* at 15. She observed that the Individual “sees the benefits of being sober” and has “said [to her] that he enjoys his life without drinking” and that “his life is better . . . without the drinking.” *Id.*

The Individual testified that the IOP taught him “how to deal with [his] emotions”; “how to deal with [his] triggers”; and “how to communicate how [he is] feeling.” *Id.* at 88. Specifically, he explained that the program helped him in identifying triggers for his anxiety and in addressing them. *Id.* at 95. In particular, the Individual explained that prior to treatment things that made him anxious would make him “want to run away from those problems” but that he has now “learn[ed] how to attack them” and “different coping [ ] mechanisms, like going to the gym, going for a drive, or talk[ing] to [his] sister . . . [or] dad.” *Id.* When directly asked why he believed he would not re-offend or relapse in alcohol consumption when he had in the past after his 2022 DWI and a prior period of sobriety, the Individual explained that the IOP had made a difference by teaching him about his “triggers and [his] emotions” and by teaching him “how to cope with everything.” *Id.* He indicated that he was committed to “continu[ing] to use all those tools . . .” *Id.* at 111.

The Individual successfully completed the 90-day program in July 2024. *Id.* at 12; *see also* Ex. A at 3 (Diploma certifying that the Individual completed the IOP in July 2024); Ex. B at 5 (IOP Office Manager’s letter dated August 2024 stating that the Individual completed the IOP). After completing the IOP’s 90-day program, the Individual continued attending aftercare at the recommendation of the IOP therapist, which consisted of one group session and one individual session weekly until October 3, 2024. Tr. at 12–13, 20–21; Ex. B at 5 (IOP Office Manager’s letter dated August 2024 stating that the Individual continued attending weekly group sessions). Upon

completion of the IOP's aftercare, the IOP therapist testified that the IOP "successfully discharge[d]" the Individual and that the Individual was not "clinically recommended" to complete any further treatment. Tr. at 13. At the hearing, the IOP therapist opined (1) that the Individual had demonstrated a clear and established pattern of abstinence in accordance with treatment recommendations; (2) that his prognosis was "good"; (3) that his Alcohol Dependence, Uncomplicated was in full remission since he had achieved more than six months of sobriety; and (4) that the Individual has a low risk of relapse. *Id.* at 15–16, 19, 30.

***d. Testimony Regarding Individual's Current Sobriety and Post-IOP Treatment***

After the completion of the IOP's required aftercare in October 2024, the Individual testified that he continued treatment by voluntarily seeking out a separate therapist. *Id.* at 86–87. He had an intake session with his current therapist's practice group on October 28, 2024, and, as of the date of the hearing, completed four weekly sessions with the therapist. *Id.* at 87, 90; Ex. E. The Individual indicated that he intends to continue therapy for as long as it is recommended and beneficial to him. Tr. at 90. He testified that he discusses his sobriety with this new therapist. *Id.* at 112. More specifically, they discussed how his prior alcohol use acted as a sort of "escape route" and have discussed ways to "talk everything out" instead of "running to alcohol . . . ." *Id.* at 113. From his individual sessions at both the IOP and with his current therapist, the Individual explained that he learned to talk through his feelings. *Id.* at 96. He testified that he also now handles his triggers and emotions by going to the gym and driving. *Id.* at 89–90.

The IOP therapist met with the Individual once or twice after the completion of the IOP's aftercare requirements, during which times they discussed the Individual's recent separation from his ex-girlfriend. *Id.* at 23–24. The IOP therapist assessed that the Individual had "processed through [the breakup] very well"—noting that the Individual "was tearful" about having "made a hard choice." *Id.* at 24. She had also noted that "whenever anybody makes a . . . choice to separate from a long-term relationship" it could lead to relapse. *Id.* at 27. She noted that the Individual had not relapsed, however, and that it was "big . . . knowing that he learned from his experience" with the IOP. *Id.* At the hearing, the Individual also provided additional testimony regarding the breakup. *Id.* at 98. Consistent with the IOP therapist's earlier observations, the Individual was visibly distressed and shared that the breakup had been hard on him. *Id.* at 98–99. Further consistent with the IOP therapist's assessment, the Individual testified that he handled the stressor by consulting his family and his current therapist. *Id.* at 99. The Individual acknowledged that, in the past, he would have used alcohol to address this stressor; however, he now has "learned how to deal with [his emotions]" and testified that would "rather deal with [his] emotions than go drink alcohol."<sup>7</sup> *Id.* The Individual's father confirmed that, despite the Individual having ended a "decent term relationship[,] he had not "seen [the Individual] have the urge" or "need to go drink . . . ." *Id.* at 46.

The Individual testified that he has no intention to drink in the future because he "like[s] being sober" and "having a clean state of mind" and because "[i]t's nothing but trouble . . . ." *Id.* at 86.

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<sup>7</sup> The Individual explained that he had also been watching YouTube videos where people discussed dealing with their own anxiety. Tr. at 97–98. He explained that these videos helped him a lot as the people were typically younger and he could relate to them better. *Id.* at 98.

When asked whether he would drive if he were to hypothetically drink in the future, the Individual emphatically answered, “No. No.” *Id.* at 100. He further testified that he now avoids situations where alcohol is present and deliberately does not spend time with the friends with whom he used to drink. *Id.* at 88–89; *see also id.* at 45 (Individual’s father testifying that the Individual “without compromise” has “removed himself from those situations”), 65 (Individual’s sister testifying that he has stopped spending time with those friends). The Individual indicated that he spends most of his free time with his father and sister<sup>8</sup> and that they are supportive of his sobriety.<sup>9</sup> *Id.* at 88. The Individual testified, if he wanted to drink in the future, or otherwise needed support, he could call either his therapist, sister, or father and would feel comfortable doing so. *Id.* at 90, 96, 100. The Individual’s sister similarly testified with confidence that she would be available to respond to the Individual if he ever wanted to talk about wanting to drink again and that she would be ready and prepared to have those conversations with him. *Id.* at 69. The Individual clarified, however, that he does not want to drink again because he does not “want to throw everything away.” *Id.*

The Individual’s father testified that at several dinners, and even an outing at a sports bar, others would offer the Individual a drink and the Individual would simply respond, “[N]o, I’m sober[.] [T]hank you, though.” *Id.* at 49–50. The Individual’s father testified that he observed these types of responses from him at least twice, the first time occurring between May and July 2024 and the second time occurring in November 2024. *Id.* at 51; *see also id.* at 60–61 (Individual’s sister similarly testifying to seeing the Individual in settings where alcohol is available but refraining from drinking). The Individual’s sister observed “a little bit of a demeanor shift when there is alcohol present” insofar as the Individual “sees it negatively” and “almost judges people who drink now . . . .” *Id.* at 67. Consistent with the testimony of his father and sister, the Individual testified that he typically just drinks soda or water in situations where alcohol is present. *Id.* at 89.

The Individual’s father testified that the Individual has expressed that he is doing well with therapy and feels better coming out of therapy sessions. *Id.* at 38–39. The Individual’s sister recounted that the Individual appears to “really enjoy[ ]” therapy, oftentimes “com[ing] over to [her] ho[me] super excited” and “just diving into himself and doing the work.” *Id.* at 61. She observed that he “has a revelation every single week . . . .” *Id.* at 61. Regarding his therapy and treatment, the Individual’s sister observed that the Individual had learned to “fac[e] consequences” by “actually speak[ing] through them.” *Id.* at 67. She also indicated that he has been “having fun . . . figuring out where he went wrong . . . and dissecting that.” *Id.* at 67. The Individual’s sister also observed a difference in the Individual’s attitude towards the 2022 DWI and 2024 DWI. *Id.* at 72. Specifically, she believed that the Individual has put in more work to demonstrate growth, to mature, and to

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<sup>8</sup> Since the Individual has stopped associating with those friends, the Individual’s sister testified to “plac[ing] [herself] in a position of being [the Individual’s] best friend.” Tr. at 65. The Individual’s sister speaks to the Individual every day via telephone and sees him in-person three or four days out of the week, typically when he visits her apartment. *Id.* at 57. The Individual’s sister also does not drink alcohol and does not keep alcohol at her apartment. *Id.* at 59–60. When they spend time together, the Individual typically talks with her while she cooks dinner. *Id.* at 65. They also play video games together or go to the gym. *Id.* at 65–66. His sister has also introduced the Individual to her girlfriend’s family with whom he has gotten closer and who also do not drink alcohol. *Id.* at 66.

<sup>9</sup> The Individual’s father testified that he discussed with the Individual his future intentions regarding alcohol and that they agreed that it was “not a good choice for [the Individual] to do.” Tr. at 45; *see also id.* at 52. (“[W]e pretty much have said you’re not doing it again.”). His sister was clear that while the Individual’s sobriety was of “his [own] initiative[,]” she has also advised him that drinking was “not even an avenue worth dabbling in . . . .” *Id.* at 75–76.



understand the consequences of his actions. *Id.* She also believes that “he is extremely proud of his sobriety.” *Id.*

The Individual’s father disclosed that there is alcohol in their home. *Id.* at 38. However, the alcohol kept by the Individual’s father is stored in his own room. *Id.* at 59. The Individual’s father testified that he “goes through [the Individual’s] room randomly just to double-check” and that the Individual has “never displayed in the past year any type of drinking whatsoever.” *Id.* at 47. The Individual testified that he had not consumed his father’s alcohol at the house. *Id.* at 88.

## VI. ANALYSIS

### *a. Guideline G*

Conditions that could mitigate security concerns under Guideline G include:

- (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; or,
- (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.

Regarding the first mitigating condition, I cannot find so much time has passed given that the last DWI occurred less than a year ago. I also cannot find the behavior infrequent or to have happened under unusual circumstances. While the record includes two DOE psychologists’ reports finding no indication that he was a heavy drinker or habitual consumer of alcohol and the IOP therapist’s testimony that the Individual drank infrequently, the fact remains that the problematic behavior alleged in the SSC, specifically the 2022 and 2024 DWIs, occurred twice within a two-year period. Additionally, the circumstances surrounding each DWI cannot be said to have been unusual, given the relatively routine activities occurring prior to both DWIs: the first occurred after his twenty-third birthday celebration around St. Patrick’s Day, and the second occurred on a drive to pick up fast food. Accordingly, I cannot find that mitigating condition (a) applies.

Regarding the second mitigating condition, the Individual admitted that the two DWIs resulted from maladaptive alcohol use. Furthermore, he has provided a fulsome record of steps taken to overcome the problem. I weigh heavily the fact that after the second DWI, the Individual—in contrast to his behavior after the first DWI and of his own initiative—enrolled in and completed an IOP, completed the required IOP aftercare, and began seeing another therapist even post IOP aftercare. The Individual provided testimony setting forth examples demonstrating the efficacy of his treatment and provided corroborating testimony by his IOP therapist, father, and sister. All witnesses mentioned that the Individual had been exposed to or offered alcohol in social settings, even at a bar. Regardless, the Individual has declined all offers of alcohol and has been vocal about his sobriety. All witnesses further described the Individual having a hard time with a recent break up but properly processing his thoughts and emotions on the decision—whereas in the past, he would have used alcohol to cope with those emotions. Additionally, I credit that the Individual has disassociated from the people with whom he used to drink; has re-prioritized his time by socializing with his family members who are heavily involved in and supportive of his sobriety; and has continued to attend therapy where they discuss his former alcohol use, his triggers, and how to cope with those triggers.

The Individual testified that he has been sober since his January 2024 DWI. I have no reason to doubt his sobriety given the corroborating lab results from the Second DOE Psychologist's March 2024 examination; urinalysis from when the Individual was in the IOP; the testimony of his IOP therapist, the Individual's father, and the Individual's sister, who observed the Individual regularly during this period; and the DOE Counsel's stipulation that the fact that the Individual had no probation violations was indicative of the fact that the Individual had not had a positive result on his interlock or urinalysis results. Based on her observations of the Individual's progress, the IOP therapist provided her expert testimony that the Individual's Alcohol Dependence, Uncomplicated was in remission, that the Individual's prognosis was good, and that his risk of relapse was low. Accordingly, I find that mitigating condition (b) applies.

Regarding the third mitigating condition, the record reflects the Individual is currently receiving counseling but is not currently enrolled in a treatment program for his alcohol use, having completed the IOP in July 2024. Mitigating condition (c) does not apply here.

Regarding the fourth mitigating condition, the Individual has successfully completed the IOP, along with the IOP's required aftercare. As explained above, I also find that the Individual has established a clear and established pattern of abstinence that is in accordance with treatment recommendations. Therefore, I find that the mitigating condition at (d) applies.

For the aforementioned reasons, I find that the Individual has resolved the security concerns raised by the LSO under Guideline G.

***b. Guideline J***

Conditions that could mitigate security concerns under Guideline J include:

- (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.

As a preliminary matter, the Individual has not put forth evidence demonstrating that he was pressured or coerced into committing the two DWIs at issue. Accordingly, mitigating condition (b) does not apply. Furthermore, the Individual has pled guilty to both the DWIs, and it cannot be said there is no reliable evidence that the Individual committed the two DWIs. Thus, mitigating condition (c) does not apply.

The criminal acts alleged in the SSC are inextricably intertwined with the Individual's alcohol consumption leading to the 2022 and 2024 DWIs. Accordingly, as stated above, I cannot find so much time has passed given that the last DWI occurred less than a year ago. I also cannot find the behavior infrequent or to have happened under unusual circumstances when the DWIs occurred twice within a two-year period under relatively mundane circumstances. Accordingly, mitigating condition (a) does not apply.

However, as for the fourth mitigating condition, the Individual's evidence of alcohol rehabilitation is probative of the Individual's rehabilitation of his criminality. As stated above, while the Individual committed a second DWI less than two years after the first, I weigh heavily that the Individual has demonstrated a marked difference in his rehabilitative efforts compared to those following his first DWI—specifically that the Individual, on his own initiative and without a court order, enrolled in and completed an IOP, completed the required IOP aftercare, and began seeing another therapist for his own benefit. For the same reasons as stated above, I find that the treatment has been effective and that the Individual has remained sober since the January 2024 DWI. I also find that the Individual has demonstrated rehabilitation of his criminality by installing an interlock prior to any court order and maintaining his ongoing compliance with the terms of his probation—specifically having completed ten days of house confinement, a Victim Impact Panel, and all but seven-and-a-half hours of the required community service. Accordingly, I find that mitigating condition (d) applies.

## **VI. CONCLUSION**

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G and J 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 brought forth sufficient evidence to resolve the security concerns asserted by the LSO under Guidelines G and J. Accordingly, I have determined that the Individual's access authorization should be restored.

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

Brenda B. Balzon  
Administrative Judge  
Office of Hearings and Appeals