

*The original of this document contains information which is subject to withholding from disclosure under 5 U.S. C. § 552. Such material has been deleted from this copy and replaced with XXXXXX's.

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

In the Matter of: Personnel Security Hearing)
)
Filing Date: August 16, 2024)
)
_____)

Case No.: PSH-24-0179

Issued: January 3, 2025

Administrative Judge Decision

Steven L. Fine, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (hereinafter referred to as “the Individual”) to hold an access authorization under the Department of Energy’s (DOE) regulations set forth at 10 C.F.R. Part 710, entitled “Procedures for Determining Eligibility for Access to Classified Matter and Special Nuclear Material or Eligibility to Hold a Sensitive Position.”¹ The present case involves an Individual who was diagnosed with Unspecified Alcohol-Related Disorder (UARD). This Decision considers whether the Individual has resolved the security concerns raised by his diagnosis. As discussed below, after carefully considering the record before me in light of the relevant regulations and the *National Security Adjudicative Guidelines for Determining Eligibility for Access to Classified Information or Eligibility to Hold a Sensitive Position* (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual’s access authorization should be granted.

I. Background

In September 2023, the Individual completed a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 9 at 165. In his QNSP, the Individual reported that he had been cited for Minor in Possession or Consumption of Alcohol in 2010. Ex. 9 at 195. The Individual also answered “yes” when asked if his alcohol use has “had a negative impact on your work performance, your professional or personal relationships, your finances, or resulted in intervention by law enforcement/public safety personnel?” Ex. 9 at 203. He further explained that after some personal difficulties beginning in 2019, he began to use alcohol to self-medicate. Ex. 9 at 203. This behavior was made worse by the beginning of the COVID-19 pandemic. Ex. 9 at 203. The Individual also reported that he was treated for alcohol withdrawal at a hospital in March 2020. Ex. 9 at 203.

¹ Under the regulations, “[a]ccess authorization means 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). Such authorization will also be referred to in this Decision as a security clearance.

As a result of these responses on the QNSP, the Local Security Office (LSO) asked the Individual to complete a Letter of Interrogatory (LOI) in April 2024. Ex. 6. In his LOI, the Individual explained that at the time of the LOI he typically consumed between two and five alcoholic beverages per week in social situations. Ex. 6 at 112. He also said that he consumed alcohol to the point of intoxication approximately every four to eight weeks and said he had most recently become intoxicated when he consumed between five and eight beers over a period of about three hours. Ex. 6 at 113. When asked if he had a problem with alcohol, the Individual said that he felt he had a problem with loneliness that he was masking with alcohol and that he was working on that problem in therapy and by moving so that he lived closer to the people in his support system. Ex. 6 at 114. The Individual confirmed he was treated for alcohol withdrawal at a hospital's emergency room. Ex. 6 at 115.

At the request of the LSO, the Individual was evaluated by a DOE contracted psychologist (the DOE Psychologist). On May 8, 2024, the DOE Psychologist conducted a clinical interview of the Individual (CI). Ex. 7 at 134. On May 14, 2024, the DOE Psychologist issued a report in which she concluded that the Individual met the criteria for UARD. Ex. 7 at 139–140. The DOE Psychologist came to this conclusion because (1) the Individual acknowledged a history of excessive drinking; (2) the Individual lacked any alcohol-focused treatment; (3) the Individual reported consuming a significant amount of alcohol while taking psychotropic medications that contraindicated alcohol; (4) the Individual reported consuming alcohol despite having psychological conditions exacerbated by alcohol use; and (5) there was an inconsistency between his reported alcohol consumption and the results of a Phosphatidylethanol (PEth) laboratory test that was administered at the time of the evaluation. Ex. 7 at 139. The Individual reported to the DOE Psychologist that the last time he had consumed alcohol was about two weeks prior to the evaluation. Ex. 7 at 136. The PEth tests was positive at 50 ng/mL.² Ex. 7 at 146.

The DOE Psychologist concluded that the Individual had not demonstrated that he was rehabilitated or reformed. Ex. 7 at 140. The DOE Psychologist recommended that, in order to show rehabilitation, the Individual should attend alcohol-focused counseling that includes individual or group components or attend three Alcoholics Anonymous (AA) meetings a week (or meetings of a similar evidence-based program). Ex. 7 at 140. If the Individual chose to attend AA meetings or meetings of a similar program, the DOE Psychologist stated that he should obtain a sponsor, work through the twelve steps, and document his attendance. Ex. 7 at 140. She also recommended that the Individual provide laboratory documentation of his abstinence from alcohol by undergoing monthly PEth tests for at least six months. Ex. 7 at 140. She stated that if the Individual chose to show reformation, he would need to demonstrate abstinence via PEth tests for a period of twelve months. Ex. 7 at 140.

Present Administrative Review Proceeding

The LSO began the present administrative review proceeding by issuing a Notification Letter to the Individual informing him that it received derogatory information creating substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 5. The Notification Letter further informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve

² According to the laboratory report, PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption. Ex. 7 at 146.

the security concerns. *See* 10 C.F.R. § 710.21. The Individual requested a hearing, and the LSO forwarded the Individual's request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as the Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), I took testimony from the Individual, his supervisor, his therapist (Therapist), his coworker, and the DOE Psychologist. The DOE Counsel submitted ten exhibits, marked as Exhibits 1 through 10. The Individual submitted fourteen exhibits, marked as Exhibits A through N.

Exhibit A is the Individual's response to the security concerns listed in the Summary of Security Concerns attached to the Notification Letter. Ex. A.

Exhibit B is a copy of the Individual's resume. Ex. B.

Exhibit C is a copy of the Individual's most recent performance evaluation.³ Ex. C.

Exhibit D consists of eight letters of support from family, friends, and co-workers. Ex. D.

Exhibit E consists of documentation of PEth tests taken by the Individual on June 28, 2024, and July 26, 2024. Ex. E. On both occasions, the Individual's test had a negative result. Ex. E.

Exhibit F is a report written on August 2, 2024, by a private practice psychologist that the Individual employed to conduct a psychological screening assessment. Ex. F. After completing his evaluation, the private practice psychologist diagnosed the Individual with Alcohol Use Disorder (AUD), Mild, in early remission. Ex. F.

Exhibit G is a copy of the private practice psychologist's curriculum vitae. Ex. G.

Exhibit H is a letter from the Individual's Therapist. Ex. H. The letter stated the Individual and the Therapist had discussed the Individual's alcohol use and that the Individual had discontinued his use. Ex. H. The Therapist also expressed his opinion as former clearance holder that the Individual does not pose a threat to national security.⁴ Ex. H.

Exhibit I is a letter from the Individual's primary care physician. Ex. I. She stated that she had discussed alcohol use with the Individual while he was under her care, and, while she has not conducted any testing directly related to alcohol use, the Individual's weight, cholesterol, and sugar levels have all decreased in a manner consistent with cessation of alcohol consumption. Ex. I.

Exhibit J consists of documentation of PEth tests taken by the Individual on September 30, 2024, and October 28, 2024. Ex. J. On both occasions, the Individual's test had a negative result. Ex. J.

³ I do not consider the Individual's work performance material to the concerns raised by the LSO. As such, I did not consider this evaluation in the course of making my Decision here.

⁴ I do not give the Therapist's opinion on the Individual's reliability any more weight than I do the opinion of any other witness here.

Ex. K is a letter from the Individual's current supervisor. Ex. K. In the letter, the supervisor speaks to the Individual's value and dependability as an employee. Ex. K.

Exhibit L is an attendance log showing that the Individual's attended SMART Recovery meetings approximately twice a week between July 1, 2024, and November 11, 2024. Ex. L.

Exhibit M is a copy of the Therapist's curriculum vitae. Ex. M.

Exhibit N consists of documentation of a PEth test that the Individual took on November 27, 2024.⁵ Ex. N. The document shows that the Individual's test had a negative result. Ex. N.

II. The Summary of Security Concerns

The SSC attached to the Notification Letter informed the Individual that information in the possession of the DOE creates substantial doubt concerning his eligibility for a security clearance under Guideline G (Alcohol Consumption). Under Guideline G, the LSO cited the DOE Psychologist's conclusion that the Individual met the diagnostic criteria for UARD. Ex. 1 at 5. This information adequately justifies the LSO's invocation of Guideline G. Under Guideline G, "[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. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are "diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder." Adjudicative Guidelines at ¶ 22(d).

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 their eligibility for an access authorization. The

⁵ While the Individual did not provide separate documentation of a PEth test taken in August of 2024, the documentation of his September, October, and November PEth tests all show that the Individual underwent a PEth test on August 27, 2024, and that test had a negative result. Ex. J; Ex. N.

Part 710 regulations are drafted to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. 10 C.F.R. § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Hearing Testimony

The Individual testified that he believes the last time he engaged in binge drinking was February 2024. Tr. at 90. The Individual's last consumption of alcohol occurred on May 27, 2024, when he had one glass of wine at a birthday dinner. Tr. at 90. When he had the drink on May 27, the Individual realized that he was not enjoying consuming the wine and that he did not like how it made him feel. Tr. at 120. He testified that he does not intend to consume alcohol in the future. Tr. at 90. The Individual admitted that his alcohol consumption was a "serious thing that need[ed] to be dealt with." Tr. at 94. The security process helped him to recognize that his alcohol use was a problem, and he acknowledged that the security concerns were fully his own fault. Tr. at 94, 97.

The Individual explained that a lot of his binge drinking was brought on by unfortunate personal circumstances. Tr. at 77. Shortly after the COVID-19 pandemic began, both of his grandparents passed away from COVID-19. Tr. at 77. Around that time, his parents decided to get a divorce, and both moved away from the area where the Individual was living. Tr. at 77. Those events, combined with the COVID-19 related "lockdown," made the Individual feel very isolated, and he "did not deal with it in healthy ways." Tr. at 77. Around this time, the Individual attempted to deal with what he recognized as excessive alcohol consumption with the "LifeRing" program,⁶ but rules related to the COVID-19 pandemic caused those meetings to transfer to a virtual setting, which the Individual did not find helpful. Tr. at 117. As such, he only attended those meetings for about a month, and then he resumed consuming alcohol in moderation. Tr. at 117–18. During his month-long participation in the LifeRing program, the Individual did not tell anyone he was abstaining from alcohol. Tr. at 119. Later, reflecting back on this experience made the Individual realize that he could not drink in moderation and that he needed to share with others that he was no longer consuming alcohol. Tr. at 119.

The Individual began attending in-person SMART Recovery meetings in the beginning of July 2024. Tr. at 87; Ex. L. He explained that he attends meetings approximately twice a week for about an hour and a half. Tr. at 86; Ex. L. At each meeting, there is a "check-in" about how everyone's week went, and then the group focuses on learning about one of the tools from the SMART Recovery workbook or curriculum. Tr. at 86. The Individual testified that the "10-10-10" method has been the most helpful tool he has learned about and explained that the method asks a person to think about how a decision they are making will affect them in ten seconds, ten minutes, and ten hours. Tr. at 88. Another tool he described was called "tape forward," which asks a person to think about what happened when they made a certain decision in the past and how they feel about it. Tr. at 88. The Individual also said that he appreciates the community aspect of SMART Recovery because he gets to hear how everyone is doing each week and see how other people deal with the same problems that he has. Tr. at 89. He testified that his goal in SMART Recovery is to gain tools to help him to "deal with any issues that may come up from alcohol in the past," and

⁶ On its website, LifeRing describes itself as "an organization of people who share practical experiences and sobriety support." <https://lifering.org/lifering-recovery-menu/>, last accessed Jan. 3, 2025.

form a community with people who have had similar issues. Tr. at 99. He stated that he intends to continue attending SMART Recovery meetings in the future. Tr. at 89, 100.

In addition to his therapy and the SMART Recovery meetings, the Individual has focused on living a “well balanced life and forming relationships.” Tr. at 95. He sees these social connections with his community and family as key alternatives to consuming alcohol. Tr. at 95. The Individual has improved his social connections by moving closer to family and starting a job that is in-person. Tr. at 104. When he moved to his current city, the Individual became physically closer to his mom and his niece,⁷ who became his closest support system. Tr. at 101. He also has several older sisters who do not live in the same area as him, but he knows he can call and talk with them if he needs additional support. Tr. at 101. The Individual also plays in a sports league every Sunday morning with the same group of people. Tr. at 102. He has attended several events where alcohol was present, and he has gotten water or a mocktail instead of consuming alcohol. Tr. at 103.

The Individual started seeing the Therapist in March 2024 shortly after his father’s death. Tr. at 82, 84–85. He recognized that in the past some of his coping mechanisms had been unhealthy, and he wanted to find better ways to take care of himself. Tr. at 85. Initially, the Individual would have a session every week, but about a month before the hearing they moved to having sessions every other week. Tr. at 82. In the sessions, the Individual has discussed his alcohol consumption with the Therapist, who has recommended that he continue abstaining from consuming alcohol and attending the SMART Recovery meetings. Tr. at 82. The Individual’s goal for his therapy sessions is to help himself maintain a well-rounded, happy, and fulfilled life. Tr. at 100.

The Individual decided to see the private practice psychologist for an evaluation at the end of July 2024 because he wanted a second opinion after seeing the DOE Psychologist’s report. Tr. at 81, 120. The private practice psychologist diagnosed the Individual with AUD, mild, in early remission and recommended that the Individual continue attending SMART Recovery meetings, abstaining from alcohol consumption, and seeing the Therapist. Tr. at 81; Ex. F.

The Individual’s supervisor testified that she has directly supervised him for a little over a year. Tr. at 20. She testified that she has attended several work-related outings where the Individual was present and alcohol was available, but she has never seen the Individual consume any alcohol. Tr. at 23.

The Therapist testified that he began counseling the Individual in March 2024. Tr. at 33. Their sessions were weekly until about November 2024, and now the Individual sees the Therapist every other week. Tr. at 33. The Therapist explained that he works “on a whole person concept,” and, as such, he has worked with the Individual “to help [his] mind think best and be in the best state.” Tr. at 34. This philosophy has included some discussion about the Individual’s consumption of alcoholic beverages. Tr. at 34. While the Therapist and the Individual regularly discussed the Individual’s alcohol use, the Therapist also testified that he did not provide any treatment specifically directed at treating any alcohol issue because the Therapist felt the Individual was making great progress on reducing his alcohol consumption without any direct intervention from the Therapist. Tr. at 48–49. The Therapist stated that the Individual reports that he is no longer consuming alcohol and that he “feels smarter every day that he doesn’t drink.” Tr. at 36. The

⁷ The Individual also testified that his niece is approximately the same age as him. Tr. at 101.

Individual has told the Therapist that he does not intend to consume alcohol in the future. Tr. at 36. In addition to discussing the Individual's alcohol consumption, the Therapist also reported that he and the Individual discussed how implementing a healthy diet and exercise can help the Individual cope with stressful situations in the future. Tr. at 39.

The Individual's coworker testified that she has worked with the Individual for about a year. Tr. at 54. The coworker said that she has been to work events with the Individual where alcohol was present, and he did not consume any alcohol. Tr. at 58. She testified that she knew the Individual was "attending classes" two times a week, and he has shared that he does not want to drink at all. Tr. at 61. The coworker also stated that she has been to the Individual's house several times and lived with him for a short period of time, and she has never seen alcohol in his home. Tr. at 65. The Individual has told the coworker that he does not plan on consuming alcohol in the future. Tr. at 67.

The DOE Psychologist testified after observing the testimony of each of the other witnesses at the hearing. She opined that the Individual had met the standard for rehabilitation based on his documented abstinence from alcohol consumption, his attendance at SMART Recovery meetings, and his counseling sessions. Tr. at 135. She further opined that if she had been evaluating him at the time of the hearing, she would not diagnose him with any kind of alcohol use disorder. Tr. at 132. At the time of the hearing, the DOE Psychologist testified that she believed the Individual's risk for relapse (an incident of binge drinking) was low because of the rehabilitation he has completed and because of the sincere testimony he and others gave at the hearing. Tr. at 136. She added, however, that she did not believe the Individual was a good candidate for moderate alcohol consumption. Tr. at 138. She also believes he has a "very good prognosis." Tr. at 136–37. In addition to the treatment he underwent, the DOE Psychologist stated that she thinks the Individual's decision to move closer to his family and support network as well as his decision to begin a regular exercise routine are likely part of a larger change in the Individual's life that has made him happier and healthier. Tr. at 140.

V. Analysis

The Adjudicative Guidelines set forth four conditions that may mitigate security concerns under Guideline G. Adjudicative Guidelines at ¶ 23(a)–(d). One of these conditions is present in the instant case.

Paragraph 23(b) provides that security concerns raised under Guideline G may be mitigated when 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." Adjudicative Guidelines at ¶ 23(b). Here, the Individual acknowledged that his alcohol consumption was problematic and has taken steps to deal with the problem. He has established a clear pattern of abstinence from alcohol consumption by providing six months of negative PEth tests as recommended by the DOE Psychologist. He has also documented his twice weekly attendance at SMART Recovery meetings from July 2024 to the time of the hearing. His therapy sessions, while not focused on his alcohol use, have helped him to gain insight into the triggers that caused him to utilize unhealthy coping mechanisms like consuming excessive amounts of

alcohol. In addition to his treatment, the Individual has addressed these triggers by moving closer to his support system, engaging in his community, and being more physically active.

I therefore find that the Individual has resolved the security concerns raised under Guideline G.

VI. CONCLUSION

For the reasons set forth above, I conclude that the LSO properly invoked Guideline G of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, I find that the Individual has resolved the security concerns raised under Guideline G. Accordingly, the Individual has demonstrated that granting his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, the Individual's security clearance should be granted. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Steven L. Fine
Administrative Judge
Office of Hearings and Appeals