

*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: November 5, 2024)	Case No.: PSH-25-0021
)	
_____)	

Issued: May 1, 2025

Administrative Judge Decision

Noorassa A. Rahimzadeh, 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."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

In February 2016, the Individual completed and submitted a Questionnaire for National Security Positions (QNSP). Exhibit (Ex.) 24.² In the QNSP, the Individual disclosed that he was charged with Minor in Possession of Alcohol in March 2014. *Id.* at 342. The matter was expunged following his completion of a pretrial intervention program (PTI). *Id.* As part of the investigation process, the Individual was interviewed by an investigator in October 2016. *Id.* at 356. The investigator asked the Individual about the March 2014 Minor in Possession charge, and he explained that he was arrested when he was approached by an undercover law enforcement officer who asked what he was drinking. *Id.* at 361. The Individual disclosed to the officer that his cup contained alcohol and was accordingly arrested and taken to a detention center. *Id.* As part of the PTI, he completed alcohol awareness courses, 100 hours of community service, attended Alcoholics Anonymous (AA) meetings, and participated in a prison tour. *Id.*

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

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

During the same interview with the investigator, the Individual disclosed another Minor in Possession of Alcohol charge that he had not disclosed in the 2016 QNSP. *Id.* In June 2012, at the age of eighteen, the Individual was consuming alcohol at a party when a law enforcement officer was dispatched to the location. *Id.* The law enforcement officer proceeded to write tickets to underage individuals who were consuming alcohol, issuing one of the tickets to the Individual. *Id.* The Individual was given the opportunity to partake in an Alcohol Education Program (AEP), which required him to complete fifty hours of community service and attend a Mothers Against Drunk Driving (MADD) class. *Id.* at 361–62. Upon the completion of these items, the matter was expunged from the Individual’s record. *Id.* at 361.

In January 2017, the Individual underwent a Personnel Security Interview (PSI) conducted by a Security Specialist Ex. 23. During the PSI, the Individual confirmed the above alcohol-related charges and the actions he subsequently took to address the matters. *Id.* at 140–42. During the PSI, the Individual committed to not “drinking to excess in the future,” “obey[ing] all alcohol related laws,” and refraining from drinking and driving. *Id.* at 154. The Individual was subsequently granted an access authorization.

The record also indicated that the Individual was charged with Driving on Wrong Side of Road in July 2014, which resulted in a \$155 fine. Ex. 22 at 110. The Individual “was charged with Speeding 86-mph in a 65-mph zone [in August 2017.]” Ex. 11 at 45.

In July 2021, the Individual was charged with Driving Under the Influence (DUI)/Driving with Unlawful Alcohol Concentration (DUAC). Ex. 21 at 104–05; Ex. 15 at 59–61. Following this incident, the Local Security Office (LSO) asked the Individual to complete a Letter of Interrogatory (LOI), which the Individual signed and submitted in September 2021. Ex. 18. The Individual indicated that he drank three to four beers during a golf game, an additional two to three beers at lunch, and three mixed drinks later in the day prior to his arrest. *Id.* at 78–79. He decided to drive home, as he “thought [he] was good.” *Id.* at 78. In November 2021, the Individual completed another QNSP, in which the Individual disclosed the July 2021 DUI and DUAC charges. Ex. 25 at 247, 249. He underwent a subsequent Enhanced Subject Interview (ESI), which was conducted by an investigator in November 2021. Ex. 24. Regarding the July 2021 DUI/DUAC, the Individual told the investigator that about an hour after consuming three to four mixed drinks, he proceeded to a restaurant. *Id.* at 268–69. He sat in his car to eat the meal that he purchased and was approached by law enforcement while in the parking lot of the restaurant and asked for his driver’s license. *Id.* at 268. At that time, the Individual was told that he was being arrested for DUI/DUAC. *Id.* The Individual learned that an employee at the restaurant had called law enforcement officers “and told them that they believed [the Individual] was intoxicated.” *Id.* The Individual told the investigator that he no longer drank alcohol and stated that he would “abide by law and regulations.” *Id.* The criminal matter was resolved when, in mid-March 2022, the Individual pled guilty to Driving with an Unlawful Concentration of .08 but less than .10 and “paid a fine of \$1,017[.]” Ex. 14 at 55–57. In March 2022, the Individual completed and submitted a second LOI regarding the information he provided in the 2021 QNSP. Ex. 17.

In early February 2023, the Individual reported that he was charged with DUI and Failure to Maintain Lane. Ex. 19 at 85, 87; Ex. 13 at 52–53. Upon stopping the Individual, the law enforcement officer noted that the Individual exhibited slow, confused, and slurred speech and that

he had watery eyes. Ex. 19 at 86–87. The Individual failed field sobriety tests and refused to submit to a blood test. *Id.* In March 2023, the Individual signed and submitted an LOI, in which he disclosed information concerning the 2023 DUI. Ex. 16.

The LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created a substantial doubt regarding his continued eligibility for access authorization. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guidelines G (Alcohol Consumption), E (Personal Conduct), and J (Criminal Conduct) of the Adjudicative Guidelines. Ex. 1. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *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 Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of his former DOE contractor supervisor, his current manager, his former shift operations manager, and the owner of the court-ordered treatment program that he is attending. *See* Transcript of Hearing, OHA Case No. PSH-25-0021 (hereinafter cited as “Tr.”). He also submitted four exhibits marked as Exhibits A through D. The DOE Counsel submitted twenty-four exhibits marked as Exhibits 1 through 24.

II. Notification Letter

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 is “alcohol-related incidents away from work, such as driving while under the influence[.]” *Id.* at ¶ 22(a). Under Guideline G, the LSO alleged that:

1. At the age of eighteen, in 2012, the Individual was charged with Minor in Possession of Alcohol. Ex. 1 at 6.
2. The Individual was arrested and charged with Minor in Possession of Alcohol a second time in 2014. *Id.*
3. The Individual was “arrested for DUI” when “a concerned citizen” called law enforcement “after observing [the Individual] in an intoxicated state” in July 2021. *Id.* at 7.
4. In February 2023, the Individual was stopped by law enforcement personnel while operating a motor vehicle and arrested for DUI and Failure to Maintain Lane. *Id.*

The LSO’s invocation of Guideline G is justified.

Guideline E

Under Guideline E, “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern is the “violation of a written or recorded commitment made by the individual to the employer as a condition of employment[.]” *Id.* at ¶ 16(f). Under Guideline E, the LSO alleged that:

1. During a PSI in January 2017, the Individual made a commitment to DOE “not to drink and drive, to not drink alcohol to excess, and to obey all alcohol related laws in the future.” Ex. 1 at 6. In June 2021, the Individual was arrested and charged with DUI, “for which he ultimately pled guilty to Driving with Alcohol Content .08 or Less [than .10].” *Id.*
2. The Individual again violated his commitments when he was arrested and charged with DUI in February 2023. *Id.* Despite the aforementioned DUI, the Individual stated in his March 2023 LOI response that he did not break his January 2017 commitments to DOE. *Id.*

As indicated in the SSC, the Individual made the aforementioned commitments to the DOE. The Individual was not employed by the DOE, but rather, a DOE contractor. Moreover, the record does not show the commitments were made with the understanding that they were a condition of employment. Accordingly, the Individual did not violate a written or recorded commitment to his employer, the DOE contractor, as a condition of employment. Therefore, the allegations do not constitute a concern under Guideline E at ¶ 16(f), and I do not address them further in this Decision.

Guideline J

Guideline J states that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness” and that, “[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. Conditions that could raise a security concern under Guideline J includes “[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(b). Under Guideline J, the LSO alleged that:

1. All allegations made under Guideline G “are incorporated and apply herein.” Ex. 1 at 7.
2. The Individual was “charged with Driving on the Wrong Side of the Road and paid a fine of \$155[.]” in June 2014. *Id.*
3. The Individual “was charged with Speeding 86-mph in a 65-mph zone [in August 2017.]” *Id.*

The LSO’s invocation of Guideline J is justified.

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 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 eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact and Hearing Testimony

As indicated above, the Individual was charged with DUI and Failure to Maintain Lane in February 2023. The Individual indicated that prior to his 2023 DUI and Failure to Maintain Lane arrest, he had worked a “[ten-hour] shift of overtime[,]” filed his taxes, then proceeded to meet his friends for dinner where he consumed four light beers. Ex. 16 at 65; Tr. at 38–39. After dinner, he proceeded to a second location “for several more hours” where he claimed he did not consume alcohol after 9:00 pm. Ex. 16 at 65; Tr. at 37–38. The Individual went on to state that after leaving the second location, he was stopped by law enforcement when he failed to maintain his lane “due to complete exhaustion.” Ex. 16 at 65; Tr. at 39. The Individual was subject to a field sobriety test, which consisted of reciting the alphabet backwards, which he attempted twice, but could not complete. Ex. 16 at 66; Tr. at 41. The Individual stated in his March 2023 LOI response that he “was accused of rejecting the test on the third attempt because [he] could not do it.” Ex. 16 at 66. He indicated that because he could not complete the field sobriety test, he was arrested. *Id.*; Tr. at 41.

The police report regarding the matter indicates that when law enforcement stopped the Individual, they observed the Individual “push the unlock button” when he was instructed to roll his window down. Ex. 19 at 87. The report notes that the individual “appeared to be confused” and that his “eyes were watery, dilated and red.” *Id.* Law enforcement personnel made note of the Individual’s slurred speech, and the fact that he “had trouble maintaining his balance while walking and standing” upon being asked to exit his vehicle. *Id.* Law enforcement personnel asked the Individual to recite the alphabet “from the letter G to the letter S without singing.” *Id.* The report notes that the Individual recited the alphabet from A to N, “then began mumbling the rest.” *Id.* He was then

asked to “count back from 86 to 65,” and after being given three opportunities to complete the task successfully, he was unable to do so. *Id.* Then the Individual was given a “finger dexterity exercise.” *Id.* Showing signs of intoxication following the sobriety tests, the Individual was placed under arrest.³ *Id.*

The Individual testified that he has been permitted to participate in a diversion program to resolve the 2023 DUI and Failure to Maintain Lane matters.⁴ Tr. at 12. The Individual began the program in October 2024. *Id.* at 14. The counseling service employed by the program has crafted four phases of treatment and an aftercare program. Ex. B at 3. Phase one requires that the Individual “[r]emain alcohol and drug free[.]” attend two monthly court sessions, attend two group counseling sessions every week, submit to random alcohol and drug tests, pay requisite fees, and comply with any other requirement ordered by the judge. *Id.* Phase two of the program incorporates the requirements of phase one but reduces the group counseling requirement to once per week. *Id.* It also requires that participants attend an AA, or a similar program, meeting once per week. *Id.* Individuals are given the option of attending either an in-person or virtual AA meeting. Tr. at 18. At the time of the hearing, the Individual was in phase two of the program and attending virtual AA meetings.⁵ *Id.* at 14, 27–29. Group counseling is “an hour and a half” and consists of cognitive behavioral therapy and various workbooks. *Id.* at 17, 30–31. The treatment providers also “figure out how [individuals] got to be where they are when they come in” and focus on treatment “they need[.]” *Id.* In all phases, drug and alcohol testing is required every single time individuals attend group counseling sessions. *Id.* at 16–17. The Individual submitted drug and alcohol urine test results from October 2024 to March 2025. Ex. A; Ex. D; Tr. at 19–20. All the urine tests were negative for alcohol, save for a positive October 2024 test.⁶ Ex. D.

The owner of the aforementioned counseling service testified that the Individual was “very optimistic” when he first came to the program, as he understood that he “had made a mistake and . . . wanted to gain as much as he [could] from” treatment. Tr. at 30. She indicated that the

³ At the hearing, the Individual denied any issues maintaining his balance, did not remember being asked to complete the alphabet without singing or to count backwards, and indicated that his red and watery eyes were the result of exhaustion. Tr. at 59–61. He also indicated that he would not be able to complete the dexterity exercise sober. *Id.* at 60. He also did not recall pushing the “unlock” button instead of rolling the window down, as instructed by law enforcement personnel. *Id.* at 61. He also did not submit to a blood or Breathalyzer test prior to his arrest. Tr. at 40–41; Ex. 16 at 66.

⁴ In addition to conducting drug and alcohol evaluations and treatment, the program also provides services to address anger management and domestic violence. Tr. at 12. With regard to substance abuse, the program is designed to “confront the substance abuse issue underlying the repetitive pattern of offenders and to reduce recidivism through . . . supervision, treatment, and individual accountability.” Ex. B at 1.

⁵ The treatment program does not require individuals to secure a sponsor or to work the Twelve Steps of AA. Tr. at 32. At the time of the hearing, the Individual had attended “three or four” virtual AA meetings. *Id.* at 80–81. He intends to secure a sponsor only “if necessary[.]” as he has no current desire to engage one. *Id.* at 85. The Individual indicated that he is not working the Twelve Steps, as the group has “not yet started that[.]” *Id.*

⁶ The Individual was ordered by the judge to attend four additional group counseling sessions because an October test was positive for alcohol and a November test was positive for opiates. Tr. at 15, 23–24, 26. When asked about the incident, the Individual stated that he cannot “pinpoint exactly what caused” him to drink, but he acknowledged that he “kind of slipped.” *Id.* at 71. He believes that it was at this point that he “really started to take accountability for the program” and his decisions. *Id.* at 76–77.

Individual was given a diagnosis of Alcohol Use Disorder, Mild.⁷ *Id.* Regarding his participation in treatment, the Individual indicated that the program is “very involved” and that the program has “kept [him] from drinking,” and has “made [him] gain a different type of accountability[.]” *Id.* at 45–46. Since participating in the program, he has “got [his] head back on clear[.]” *Id.* at 46. He testified that although he feels that he was “just a social drinker[.]” he has no intention of drinking alcohol again and anticipates beginning the aftercare program in January 2026.⁸ *Id.* at 46–48, 67, 83. The Individual denied any current cravings for alcohol, confirmed that he last consumed alcohol in late October 2024, and stated that he no longer keeps any alcohol in his home. *Id.* at 77–78, 83. He confirmed that people close to him know that he no longer consumes alcohol and that he is participating in the diversion program. *Id.* at 78. These people remain supportive of the Individual. *Id.* The Individual testified that although he frequents places where alcohol is served, like restaurants, he does not feel that the extra counseling sessions he would be forced to take in the event of a positive urine test would be worth the drink. *Id.* at 79.

The Individual’s former DOE contractor supervisor, who worked with the Individual in some capacity from 2015 to the time the Individual’s clearance was suspended, testified that he consistently gave the Individual an “A” on his performance evaluations, and that the Individual “deserved every bit of it.” *Id.* at 91–92. He did not see any behavior from the Individual that would suggest that he has an alcohol or substance abuse problem. *Id.* at 93–94. He described the Individual as reliable and trustworthy and explained that his absence has been detrimental to the facility. *Id.* at 95–96.

The Individual’s manager from October 2024 to March 2025 testified that he gave the Individual an “excellent” on his most recent performance evaluation. *Id.* at 106–07. He denied seeing the Individual report to work in a hungover state. *Id.* at 107. He also indicated that he has not seen any behavior from the Individual that would suggest that the Individual abuses alcohol or any other substance. *Id.* at 107–08. He testified that the Individual is reliable and trustworthy, and that the Individual has “great judgment in the work setting.” *Id.* at 108–09.

The Individual’s former shift operations manager testified that he has known the Individual since October 2017, when they began working together. *Id.* at 115. He had the chance to evaluate the Individual’s performance six times since October 2017, and he described the Individual as an “A” performer. *Id.* at 116–17. He testified that the Individual never came to work hungover or under the influence of alcohol or any other substance. *Id.* at 117. He described the Individual as “very reliable[.]” as he is the best worker who performed his specific duties. *Id.* at 118–19. He confirmed that the Individual is trustworthy and would be welcomed back to the workforce “[i]n a heartbeat.” *Id.* at 119. He testified that the group has “shift outings,” where they will spend time together. *Id.*

⁷ The Individual testified that he had not been notified of his diagnosis prior to the hearing. Tr. at 68.

⁸ When describing his then “current rate of alcohol consumption” in the March 2023 LOI response, the Individual indicated that due to his work schedule, he did not consume alcohol regularly. Ex. 16 at 66. Although he indicated that he “may have a few beers with friends or family” on his days off, he also indicated that he did not have a lot of time off. *Id.* The Individual indicated he feels that he does not drink alcohol to excess. *Id.* at 66–67. The Individual testified that he would have deemed himself dependent on alcohol if he “needed it every single night.” Tr. at 68. He felt that he was a “social drinker” because he only consumed alcohol “on rare occasions[.]” *Id.* He stated that he now believes that “social drinking and drinking very infrequently . . . could be” more of an “issue” than he previously believed. *Id.* at 70–71.

at 121. While he has seen the Individual consume alcohol on such outings in the past, he never saw the Individual consume alcohol to excess. *Id.*

V. Analysis

Guideline G

The Adjudicative Guidelines provide that 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; 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.

As the Individual has experienced a number of alcohol-related incidents over the span of a little over a decade, the behavior was not infrequent and did not occur under unusual circumstances. Further, as the last DUI was in 2023, and the Individual has repeatedly committed alcohol-related offenses after the passage of several years without alcohol-related incidents, the alcohol-related incident was not so long ago that the passage of time resolves the security concerns presented by the Individual's conduct. I cannot conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (a).

Turning to the remaining mitigating conditions, as stated above, the Individual has failed to acknowledge that his alcohol consumption was maladaptive and only indicated that he was a social drinker. I also do not have any treatment recommendations made by an appropriate professional with demonstrated skills in treating alcohol use disorder and knowledge of the Individual's specific needs, and accordingly, I do not have any evidence that he is following treatment recommendations. While the Individual is receiving counseling for his alcohol consumption, I have no meaningful information regarding whether the counseling sessions are tailored specifically to the Individual's alcohol-related needs. While the program has multiple phases, these phases appear to be standard for every participant, regardless of their diagnosis. It would stand to reason

that a person without an official alcohol diagnosis would have a different set of treatment needs than a person who has received an alcohol use disorder or related diagnosis. While I can appreciate that the Individual is receiving group counseling on a weekly basis, I do not have any information regarding counselor credentials, whether the program meets any minimum standards of treatment designed to help the individual achieve long-term abstinence, the Individual's prognosis, and whether he is making any meaningful strides in internalizing the information imparted during the counseling sessions.

I do have concerns that the Individual is, in fact, failing to internalize the treatment. The Individual testified that his past alcohol use was "social" in nature, despite the fact that he was charged with alcohol-related offenses twice in the last four years or so. Further, when asked whether he intended to secure an AA sponsor, he indicated that he had no such inclination and would not do so unless it was required of him. This indicates to me that the Individual may not be very concerned with his long-term sobriety, as he feels he is not in any need of any extra assistance to remain sober. Rather, it indicates to me that the Individual is more concerned with meeting program requirements to satisfactorily resolve the criminal matter.

As the Individual does not acknowledge his maladaptive alcohol use, I do not have any treatment recommendations and I cannot conclude that he remains abstinent or has modified his consumption pursuant to those recommendations, and I have no meaningful information regarding the Individual's progress in the program, or even a prognosis, I find mitigating conditions (b) and (c) inapplicable. Also, at the time of the hearing, the Individual had not completed the program or the required aftercare. The Individual has therefore failed to mitigate the stated concerns pursuant to mitigating factor (d).

For the aforementioned reasons, I find none of the mitigating conditions applicable to the facts of this case. Accordingly, the Individual has not resolved the security concerns asserted by the LSO under Guideline G.

Guideline J

The Adjudicative Guidelines provide that conditions that can 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.

The majority of the listed incidents that raise concerns under Guideline J are alcohol related. As the Individual has failed to mitigate the stated Guideline G concerns, I accordingly cannot conclude that he has mitigated the alcohol-related criminal behavior. The Individual's last alcohol-related criminal charge was in 2023, which was not so long ago in light of his pattern of reoffending after periods of several years without alcohol-related arrests. Further, I cannot conclude that the alcohol-related criminal charges happened under such unusual circumstances, as they happened over the span of years, in the context of the Individual's everyday living, and two of the incidents occurred while the Individual held access authorization. I cannot conclude that the behavior is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment under mitigating factor (a). The Individual has, however, mitigated the non-alcohol related criminal behaviors. The 2014 Driving on Wrong Side of Road and the Speeding 86-mph in a 65-mph zone charge in August 2017 both occurred years ago, one over ten years ago and one almost eight years ago. I have no information that the Individual engaged in related or similar behaviors since. Accordingly, the Individual has mitigated concerns associated with the aforementioned criminal behaviors pursuant to mitigating factor (a).

While it is true that the Individual participated in several intervention or diversion programs to resolve the alcohol-related criminal matters, the fact remains that the Individual has been charged multiple times over the span of 13 years. This, in itself, does not show proper rehabilitation, as rehabilitation suggests that the underlying issue has been addressed, preventing the recurrence of the same or similar criminal behavior. Further, while the Individual was compliant with the requirements of the previous programs, he still has not completed the current program in which he is participating. Also, there is evidence that the Individual failed to comply with the terms of the current program, as he consumed alcohol in October 2024. While I do have evidence of good job performance, I do not have evidence of any higher education or constructive community involvement. On balance, I cannot conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (d).

The Individual did not allege that he was pressured or coerced into committing the alleged acts. Mitigating factor (b) is not applicable. Although the Individual argued that he was exhausted and that law enforcement confused his outward signs of exhaustion with intoxication at the time of his 2023 DUI arrest, having examined the documented evidence pertaining to the matter, I believe that the evidence was reliable. The report produced by law enforcement was sufficiently detailed regarding the field sobriety tests and provided sufficient insight into their observations regarding the Individual's physical state. The Individual has failed to mitigate the stated concerns pursuant to mitigating factor (c).

For the aforementioned reasons, I find that the Individual has not fully resolved the security concerns asserted by the LSO under Guideline J.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G and J, but not Guideline E, of the Adjudicative Guidelines. After considering all the evidence, both favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the Guidelines G and J concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that restoring his security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. Therefore, I find 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.

Noorassa A. Rahimzadeh
Administrative Judge
Office of Hearings and Appeals