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

In the Matter of:	Personnel Security Hearing)	
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Filing Date:	December 6, 2024)	Case No.: PSH-25-0038
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Issued: May 5, 2025

Administrative Judge Decision

Diane L. Miles, 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*. (June 8, 2017) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. Background

The Individual is employed by a DOE Contractor, in a position that requires that he hold a security clearance. On March 25, 2024, the Individual was arrested and charged with Driving Under the Influence (DUI). Exhibit (Ex.) 8 at 38.² In May 2024, the Local Security Office (LSO) issued a Letter of Interrogatory (LOI) to the Individual requesting additional details about his arrest. Ex. 7. In the LOI, the Individual reported that, before his arrest, he consumed three or four 12-ounce (oz.) beers, two 3-oz. "vodka mixed drinks," and three 16-oz. beers. *Id.* at 27. The Individual also reported that the night of his arrest, he underwent a breath alcohol test (BAT), the result of which showed his blood alcohol content (BAC) was 0.154 g/210L. *Id.* at 28.

Due to the security concerns raised by the Individual's alcohol consumption, the LSO referred the Individual for an evaluation by a DOE-contractor psychologist (DOE Psychologist), who conducted a clinical interview of the Individual in July 2024 and issued a report (the Report) of her findings. Ex. 9. As part of his evaluation, the Individual underwent alcohol testing, in the form

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 the 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 the DOE.

of a Phosphatidylethanol (PEth)³ test, the result of which was positive at a level of 423 ng/mL. *Id.* at 47–48, 69. The Report indicated that the Individual’s PEth test result suggested that he had been regularly consuming between five and seven alcoholic drinks per day. *Id.* at 48. Based on her evaluation of the Individual and her review of the Individual’s PEth test result, the DOE Psychologist opined that the Individual met sufficient diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR)* for a diagnosis of Alcohol Use Disorder (AUD), Moderate, without adequate evidence of rehabilitation or reformation. *Id.* at 51.

In September 2024, the LSO informed the Individual, in a Notification Letter, that it possessed reliable information that created substantial doubt regarding his eligibility to hold a security clearance. Ex. 1 at 6–8. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guideline G (Alcohol Consumption) of the Adjudicative Guidelines. *Id.* at 5.

In November 2024, the Individual requested an administrative hearing, and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). Ex. 2. 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 six witnesses: the Individual, the Individual’s Alcoholics Anonymous (AA) Sponsor, the Individual’s Therapist, the Individual’s Psychologist, the Individual’s Supervisor, and the DOE Psychologist. *See* Transcript of Hearing, OHA Case No. PSH-25-0038 (Tr.). Counsel for the DOE submitted eleven exhibits, marked as Exhibits 1 through 11. The Individual submitted 30 exhibits, marked as Exhibits A through BB and DD through EE.⁴

II. The Summary of Security Concerns

Under Guideline G, “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. Conditions that could raise a security concern under Guideline G include: “alcohol-related incidents away from work, such as driving while under the influence . . . or other incidents of concern . . . ,” and a “diagnosis by a duly qualified medical or mental health professional (e.g., physician, clinical psychologist, psychiatrist, or licensed clinical social worker) of alcohol use disorder.” *Id.* at ¶ 22(a), (d).

In invoking Guideline G, the LSO cited the Individual’s March 25, 2024, arrest for DUI, his admission that he consumed “three to four 12-ounce beers, two 3-ounce mixed vodka drinks, and three 15-ounce beers” prior to his arrest, and the results of a BAT, taken after his arrest, which showed his BAC was 0.154 g/210L. Ex. 1 at 5. The LSO also cited the DOE Psychologist’s opinion

³ The Report indicates that PEth accumulates in the blood when “ethanol binds to the red blood cell membrane,” and the level of PEth in the blood reflects the “average amount of alcohol consumed over the previous 28–30 days.” Ex. 9 at 47. A PEth test result exceeding 20 ng/mL is “evidence of moderate to heavy ethanol consumption.” *Id.* at 47–48.

⁴ The Individual did not submit an exhibit marked CC.

that the Individual met sufficient *DSM-5-TR* diagnostic criteria for a diagnosis of AUD, Moderate, without evidence of rehabilitation or reformation. *Id.*⁵

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 their 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

In the May 2024 LOI, the Individual reported that, before his March 2024 arrest for DUI, he consumed three to four 12-oz. beers, two 3-oz. vodka mixed drinks, and three 16-oz. beers, while at home. Ex. 7 at 27. After he went to bed, he received a phone call from a friend, who had gotten into a car accident and asked the Individual to help him. *Id.* at 27, 33. The Individual drove to the scene of the accident and was questioned by a police officer. *Id.* at 27; Ex. 8 at 38. During questioning, the Individual admitted to the police officer that he had consumed alcohol earlier in the day, and the officer administered a field sobriety test, which the Individual failed. Ex. 8 at 38. The Individual was arrested for DUI, and underwent a BAT, the result of which showed his BAC was 0.154 g/210L. Ex. 7 at 28.

On April 9, 2024, the Individual was assessed by a Substance Abuse Professional (SAP) at his place of employment. Ex. DD at 2. After the assessment, the SAP diagnosed the Individual with Alcohol Intoxication, Without Use Disorder. *Id.* The SAP recommended that the Individual complete an eight-hour "Alcohol Misuse and Addiction" online education course, and a six-hour

⁵ The LSO also cited the Individual's PEth test result of 423 ng/mL, which the DOE Psychologist opined indicated the Individual had been regularly consuming "around five to seven drinks per day." Ex. 1 at 5. While this information informed the DOE Psychologist's opinion, it does not appear to raise security concerns in of itself and therefore I will not consider it as a discrete security concern.

“Substance Misuse Awareness, Commonly Misused Substances” online education course. Ex. DD at 2; Tr. at 59. The Individual completed both classes and submitted a Certification of Completion for each class. Ex. P–Q; Tr. at 59. The Individual also completed a 12-hour “DUI program,” that was “preemptive for [his DUI case,]” and he submitted a Certificate of Completion for the program. Tr. at 60; Ex. R. At the hearing, the Individual testified that completing the classes led him to change some of his habits around drinking alcohol, but it did not lead him to quit drinking altogether. Tr. at 77. The Individual also underwent random alcohol testing, in the form of BATs, by his employer. Tr. at 56, 67; Ex. Y. The Individual submitted evidence he underwent BAT testing in June 2024, August 2024, September 2024, December 2024, and March 2025, the results of these tests were negative for alcohol consumption. Ex. Y.

During his July 2024 psychological evaluation, the Individual told the DOE Psychologist that before his arrest for DUI, he consumed approximately three to four 12-oz. or 16-oz. beers, between 2:00 p.m. and 5:00 p.m., then two 3-oz. vodka drinks, and three 16-oz. drinks “over the next few hours.” Ex. 9 at 46. After his DUI, he began “drinking less,” particularly during social gatherings. *Id.* at 47. During the Fourth of July weekend, he consumed approximately five to six beers per day. *Id.* During the following weekend, he consumed “three to four standard drinks Saturday and again [on] Sunday.” *Id.* He denied consuming any alcohol during the month leading up to the evaluation. *Id.*

As part of the psychological evaluation, the Individual underwent PEth testing, the result of which was positive for alcohol consumption, at a level of 423 ng/mL. Ex. 9 at 69. A medical doctor interpreted the Individual’s PEth test result and opined that it suggested that the Individual was regularly consuming between five and seven alcoholic drinks per day. *Id.* at 68. The DOE Psychologist determined that, considering the Individual’s alcohol consumption before his arrest and his July 2024 PEth test results, the Individual was consuming alcohol “more frequently than he care[d] to admit.” *Id.* at 49. She also determined that the Individual developed a tolerance for alcohol, was likely “physiologically dependent” on it, and he was not taking responsibility for his drinking problem. *Id.* at 49–50.

The DOE Psychologist diagnosed the Individual with AUD, Moderate, without adequate evidence of rehabilitation or reformation. Ex. 9 at 51. To show adequate evidence of rehabilitation or reformation from his AUD, Moderate, she recommended that the Individual abstain from alcohol for at least 12 months. *Id.* She also recommended that the Individual participate in AA, or an alternative to AA, such as SMART or 12-step Enhanced Therapy, at least three times per week, and that he document his attendance. *Id.* Finally, she recommended that the Individual be assessed by a medical professional to determine if he required “medical detox treatment at the outset of abstaining from alcohol.” *Id.*

On September 6, 2024, the Individual underwent Ethyl Glucuronide (EtG)⁶ testing, the result of which was negative for alcohol consumption. Ex. H; Tr. at 67. The Individual explained that he chose to take an EtG test, rather than a PEth test, because he had not been sober for 30 days, and

⁶ EtG “is a metabolite of ethyl alcohol that is present in the urine for up to 80 hours after any alcohol beverage is consumed.” Personnel Security Hearing, OHA Case No. PSH-24-0154 at 6 (2024) (citing definition of EtG contained in the report of the DOE Psychologist). A negative test “provides strong medical evidence that the subject was abstinent from alcohol during the three days prior to the sample collection.” *Id.*

he wanted to show that he had stopped drinking for three days. Tr. at 79–80. On October 2, 2024, the Individual took a PEth test, which was positive, at a level of 53 ng/mL. Ex. I.

The Individual submitted evidence that from October 3, 2024, to April 4, 2025, he attended AA. Ex. F; Ex. Z. At the hearing, the Individual’s AA Sponsor testified that he has been a member of AA for 15 years and that he has been sober for 14 years. Tr. at 29–30; Ex. A. He met the Individual seven months ago at an AA meeting, and they communicate daily. Tr. at 30, 44. He has been the Individual’s Sponsor for four months. *Id.* at 32. He and the Individual are in the same AA group, which meets seven nights a week. *Id.* at 31. He stated the Individual regularly attends all his AA meetings. *Id.* He and the Individual also meet, once per week, to work through the program’s twelve steps. *Id.* at 33. During the AA meetings, they read from the program’s published daily readings and discuss topics that may be affecting a member’s sobriety. *Id.* at 49–50. The AA Sponsor stated the Individual “shares in almost every meeting” and engages with other participants during meetings. *Id.* at 50–51. He also said that AA distributes coins to mark a person’s time in the program. Tr. at 51. The Individual submitted evidence he received five coins from AA marking his enrollment and various milestones reached during the program. Ex. E. The Individual submitted two letters, from other members of AA, who wrote that they have observed the Individual regularly attend the program and actively pursue its goals. Ex. B; Ex. AA; Tr. at 37–38.

On October 25, 2024, the Individual began attending individual counseling sessions with a Therapist, upon the recommendation of his attorney. Tr. at 88, 117; Ex. C. The Individual and the Therapist have met every other week, for the past six months. Tr. at 63–64, 76. The Therapist diagnosed the Individual with Alcohol Abuse. Ex. C at 2. A letter from the Therapist indicates that the Individual was “verbal and cooperative” during his sessions. *Id.* At the hearing, the Therapist testified that his last meeting with the Individual was one week before the hearing. Tr. at 117. He stated his sessions with the Individual are focused on “the whole person,” and not solely alcohol abuse. *Id.* at 126. He believed the Individual’s prognosis was good, as long as he continues attending AA, continues attending individual counseling, and maintains “alternative activities” to drinking, such as exercising, and going to the gym. *Id.* at 121, 124–25. He also stated that the Individual expressed a willingness to continue counseling. *Id.* at 117. The Individual and the Therapist had another session scheduled to occur the week following the hearing. *Id.* at 64.

On March 14, 2025, the Individual was evaluated by a Psychologist, regarding his alcohol use. Tr. at 88, 99; Ex. D. During this evaluation, the Individual admitted that he may have minimized his level of alcohol consumption to the DOE Psychologist and that he did not take her recommendation to abstain from alcohol seriously. Ex. D at 2. At the hearing, the Individual’s Psychologist testified that after reading the Report, meeting with the Individual twice, and listening to the Individual’s testimony, he concurred with the DOE Psychologist’s opinion, that the Individual had AUD, Moderate, at the time of his psychological evaluation with the DOE Psychologist. Tr. at 99. He also concurred with the DOE Psychologist’s recommendation that the Individual abstain from alcohol for 12 months to resolve his AUD. *Id.* at 107. He did not believe the Individual believed he had a problem with alcohol until after reading the DOE Psychologist’s Report. *Id.* at 101. He believed the Individual’s prognosis was positive, because he had been following the AA program, he had a sponsor, and he was staying away from situations where he might be exposed to alcohol. *Id.* at 102. He stated that the Individual had only been sober for six months when he saw him, which he testified was a short period of time, but if he continued to “work” the AA program, it will help him continue to abstain from alcohol. *Id.* at 103.

The Individual's Supervisor testified that he has supervised the Individual since August 2023. Tr. at 15. The Individual notified him of his March 2024 arrest for DUI. *Id.* at 16. The Individual told him that, before the arrest, he was trying to help a friend, but he "knew after he [had] done it[,] that he had made a big mistake." *Id.* at 18–19. He believed that the Individual "learned his lesson" from the arrest and how an arrest could hinder his career. *Id.* at 17. He stated he knew the Individual was attending meetings outside of work to try and get his clearance reinstated. *Id.* The Supervisor submitted a letter, which indicated that the Individual has always been a dependable, reliable employee, and he has never believed the Individual was under the influence of any substance at work. Ex. W at 1. The Individual submitted a letter from another colleague, who wrote that they have never suspected or witnessed the Individual be under the influence of alcohol at work. *Id.* at 2.

The Individual testified that he should not have driven his car, after drinking, on the night of his DUI arrest. Tr. at 60. He stated he is committed to not letting something like his DUI happen again. *Id.* at 61. He claimed that he stopped drinking alcohol on August 30, 2024. *Id.* at 56. About a week later, he started attending AA. *Id.* at 76. He believed he started AA in mid-September, and he stated that he has had a sponsor for four months. *Id.* at 57. He attends six to seven AA meetings per week, Monday through Fridays at 7:00 p.m., Saturdays at 11:00 a.m., and Sundays at 7:00 p.m. *Id.* at 57, 86. The AA meetings give him a sense of fellowship with like-minded people who have shared some of his experiences. *Id.* at 62. He has made several friends from the program. *Id.* at 63. He believes his trigger to drink alcohol was being in environments where alcohol was being consumed, such as sporting events. *Id.* at 86. Now, if he is in a social setting, he drinks tea or water, and he hangs out with more people who do not drink alcohol. *Id.* at 87.

The Individual further testified that during his psychological evaluation with the DOE Psychologist, he may have been in denial about how much alcohol he was drinking. Tr. at 69. When he met with the DOE Psychologist, he was drinking six to twelve alcoholic drinks, about four days a week. *Id.* at 81. After he read the Report, he took a "real look" at himself, and he realized he was drinking more than he thought. *Id.* at 70–71. He stated he no longer drinks alcohol, and he has the support of his friends and family to remain sober. *Id.* at 57, 65.⁷ Since he has stopped drinking, he regularly attends church, works out at a gym, and is more involved in the lives of people around him. *Id.* at 73. He also intends to continue attending AA because it is a good support group, and he enjoys the fellowship of the program. *Id.* at 72.

The Individual submitted documentary evidence, to support his testimony, that on October 25, 2024, and from December 6, 2024, to April 8, 2025, he took seven PEth tests, and one EtG test, and the results of each test was negative for alcohol consumption. Exs. J–O, BB, EE; Tr. at 66–67, 88.⁸ The Individual stated that he is committed to continuing laboratory testing until December 2025, to prove that he is not drinking alcohol. Tr. at 62. The Individual also submitted a sworn statement, indicating that he is committed to continue taking PEth tests through December 2025. Ex. G.

⁷ The Individual submitted sworn statements from his mother, father, two aunts, and a friend, in support of his character and efforts to remain abstinent from alcohol. Exs. S–V, X.

⁸ The Individual did not submit documentation he underwent alcohol testing during the month of November 2024.

The DOE Psychologist testified that after listening to the testimony provided during the hearing and reviewing the Individual's exhibits, she would have diagnosed the Individual with AUD, Severe, at the time she evaluated him had she been aware of the additional information she learned at the hearing. Tr. at 135–36. She opined that, based on the Individual's testimony and evidence, she believed the Individual had been abstinent from alcohol for seven months, and his AUD, Severe, was in early remission. *Id.* at 138. The Individual had not abstained from alcohol or been engaged in alcohol treatment for 12 months, and therefore, he was not yet rehabilitated or reformed from his AUD. *Id.* at 142–44. She also opined that, “[the Individual’s] prognosis is good, should he continue to abstain and should he continue to support his abstinence with a support group, such as AA, [and] working with a sponsor.” *Id.* at 139–40.

V. Analysis

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.

Regarding factor (a), the Individual's arrest for DUI occurred one year before the hearing. The Individual's alcohol consumption continued through at least August 2024, which was less than one year before the hearing. This is an insufficient amount of time, for the passage of time alone, to mitigate the security concerns related to the Individual's alcohol consumption. Furthermore, there is no evidence that the Individual's arrest for DUI and his problematic alcohol consumption occurred under unusual circumstances. I cannot conclude that the Individual's maladaptive alcohol consumption is unlikely to recur, and it continues to cast doubt on his current reliability, trustworthiness, and judgment. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(a).

Regarding factor (b), the Individual testified that he did not realize he had an alcohol problem until after he read the DOE Psychologist's Report. Although he claimed he stopped drinking on August 30, 2024, I do not find the Individual's testimony credible as to this sobriety date because he

admitted that when he took his September 2024 EtG test, he had not been abstinent from alcohol for 30 days, and his positive October 2, 2024, PEth test result suggests that he was consuming alcohol during the month of September. Therefore, I credit the Individual with seven months of abstinence from alcohol since October 2024. Since October 2024, the Individual has taken actions to overcome his AUD. He has completed seven months of AA, is working with a sponsor, and is currently attending six to seven AA meetings per week. He also meets with his Therapist every other week. Although the Individual's sessions with the Therapist do not constitute alcohol treatment, it shows the Individual's willingness to receive counseling for issues that may be related to his alcohol consumption. I am persuaded by the opinion of the DOE Psychologist, who opined that because the Individual has not abstained from alcohol for 12 months, he has not yet established a pattern of abstinence sufficient to achieve rehabilitation or reformation from his AUD. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(b).

Regarding factor (c), after his March 2024 DUI, the Individual completed two online alcohol education courses, but those online courses do not constitute alcohol treatment. Since meeting with the DOE Psychologist in July 2024, the Individual has completed seven months of AA, during which he has worked with a sponsor and attended six to seven AA meetings per week. The DOE Psychologist opined that after seven months of AA, the Individual is in early remission from his AUD, but he has not made sufficient progress to be fully reformed or rehabilitated from his AUD. Although she opined that his prognosis was good, that prognosis was contingent upon him continuing treatment for the full twelve months, which he has not yet achieved. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(c).

Regarding factor (d), while the Individual has completed seven months of AA, this is well short of the 12 months of alcohol treatment recommended by the DOE Psychologist. The Individual has also not yet abstained from alcohol for 12 months, and therefore he has not established a pattern of abstinence in accordance with the DOE Psychologist's treatment recommendations. Accordingly, I find that the Individual has not satisfied the mitigating condition set forth at ¶ 23(d).

Having concluded that the Individual has not demonstrated the applicability of any of the mitigating conditions, I find that he has not resolved the security concerns asserted by the LSO 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, 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 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.

Diane L. Miles
Administrative Judge
Office of Hearings and Appeals