

*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: March 17, 2025)	Case No.: PSH-25-0094
)	
_____)	

Issued: August 19, 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 granted.

I. Background

The Individual is employed with a DOE contractor in a position that requires him to hold an access authorization. He first received access authorization in 1978. Transcript of Hearing, OHA Case No. PSH-25-0094 (Tr.) at 10, 14. The Individual revealed during a November 1983 Personnel Security Interview (PSI) that earlier that year, he consumed approximately three alcoholic drinks while aboard an airplane.² Exhibit (Ex.) 21 at 427.³ As he was subsequently driving to his final destination in a rental car, he was stopped by law enforcement and arrested and charged with Driving Under the Influence (DUI). Ex. 11 at 101; Ex. 20 at 385. The Individual claimed that he "did not feel intoxicated[,]" but admitted that he "was over [the] legal limit" after he submitted to

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 In a June 1994 evaluation by a DOE-consultant psychiatrist, the Individual stated that he had consumed approximately three or four alcoholic drinks while in the airplane. Ex. 11 at 101.

³ 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.

two breathalyzer tests. Ex. 21 at 427. He paid a fine the day following his arrest and the matter was ultimately resolved.⁴ *Id.* at 428.

In 1989, the Individual was “boating on a local lake” after consuming alcohol and did not see the “no wake” signage in the marina. Ex. 9 at 76; Ex. 20 at 386–87. The Individual was stopped by an officer and subsequently arrested and charged with Boating Under the Influence. Ex. 9 at 76; Ex. 20 at 388. The matter was resolved when the Individual paid a fine. Ex. 9 at 76.

In November 2008, the Individual was stopped by law enforcement for an “equipment violation” while driving his car. Ex. 14 at 121; Ex. 17 at 245. The police incident report indicated that the Individual “appeared to be impaired[,]” and accordingly, he was asked to complete “standardized field sobriety tests at the scene.” Ex. 14 at 121. The Individual told law enforcement that he had consumed two beers, and the incident report notes that the Individual smelled of alcohol, and his “eyes were also watery and bloodshot.” Ex. 13 at 112; Ex. 17 at 245. The Individual also provided a breath sample, and the Blood Alcohol Content (BAC) registered at .045. Ex. 13 at 112; Ex. 17 at 245. The Individual was arrested and told law enforcement officers that he had been prescribed an opiate medication, which he had taken approximately ninety minutes before the stop.⁵ Ex. 14 at 121–22; Ex. 13 at 116. The Individual was charged with Driving Under Influence of Alcohol/Drugs. Ex. 13 at 111. The criminal matter was ultimately dismissed. Ex. 8 at 64.

In October 2022, on his way home from a restaurant, the Individual “ran over a curb in the parking lot . . . and several people in the parking law saw this and began to yell at” the Individual. Ex. 8 at 62; Ex. 9 at 75; Ex. 15 at 156; Tr. at 38–39. The Individual’s wife, who was with the Individual at the time, “felt threatened[,]” and as the Individual believed there was “no damage[,]” they left the area. Ex. 9 at 75; Ex. 15 at 156. The Individual proceeded to drive home, where he encountered law enforcement personnel. Ex. 8 at 62. The Individual was asked to perform field sobriety tests, which he passed. Ex. 9 at 75; Tr. at 39. However, as the Individual had “red eyes[,]” law enforcement took him to the police station for a breath test, then transported him back to his home. Ex. 8 at 62; Ex. 15 at 156; Tr. at 39. The Individual was notified of the results weeks later via letter, which indicated that his BAC was .11 g/210L. Ex. 9 at 75. The Individual indicated that he had consumed two nine-ounce glasses of wine with dinner on the night of this incident.⁶ Ex. 8 at 62. Although he had not been placed under arrest the night of the incident, he was subsequently issued a ticket Ex. 9 at 75. The criminal matter was ultimately dismissed. *Id.*; Ex. 15 at 156; Tr. at 39.

The Local Security Office (LSO) instructed the Individual to complete a Letter of Interrogatory (LOI), which he submitted in September 2024. Ex. 8. As questions regarding the Individual’s alcohol use still remained, the Individual was asked to see a DOE-consultant psychologist (DOE

⁴ Per a court order, the Individual attended alcohol abuse classes, which he described as being like an “Alcoholics Anonymous” meeting. Tr. at 53. The Individual did not receive a diagnosis and did not see a treatment provider regarding his alcohol use. *Id.* at 53–54.

⁵ During the hearing, the Individual denied having made this statement to law enforcement personnel. Tr. at 34

⁶ The Individual later told a DOE-consultant psychologist during an October 2024 evaluation that he had consumed two six-to-eight-ounce glasses of wine. Ex. 9 at 75.

Psychologist) in late October 2024. Ex. 9. The Individual submitted to a Phosphatidylethanol (PEth) test in conjunction with the evaluation, the results of which were positive at 227 ng/mL.⁷ *Id.* at 93. The DOE Psychologist also administered the Minnesota Multiphasic Personality Inventory (MMPI-3) to the Individual. *Id.* at 78. The DOE Psychologist compiled a report (the Report) of his findings in November 2024 and concluded that the Individual suffers from Alcohol Use Disorder (AUD), Mild, pursuant to the *Diagnostic and Statistical Manual of Mental Disorders-Fifth Edition-Text Revision* (DSM-5-TR), without adequate evidence of rehabilitation or reformation. *Id.* at 80.

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 Guideline G (Alcohol Consumption) 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 supervisor. The Individual also submitted eight exhibits, marked Exhibits A through H. The DOE Counsel submitted twenty-three exhibits marked as Exhibits 1 through 23 and presented the testimony of the DOE Psychologist. The DOE also presented the testimony of the DOE-consultant psychiatrist (DOE Psychiatrist) who analyzed the Individual's PEth test.

II. Notification Letter

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 “alcohol-related incidents away from work, such as driving while under the influence[,]” and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (d). Under Guideline G, the LSO alleged that:

1. The November 2024 Report indicates that the DOE Psychologist diagnosed the Individual with AUD, Mild, without adequate evidence of rehabilitation or reformation. Ex. 1 at 4.
2. Pursuant to a police report, in October 2022, the Individual was involved in an alcohol-related incident. *Id.* The Individual admitted in his September 2024 LOI response that he had “consumed two (nine-ounce) glasses of wine prior to the incident.” *Id.*

⁷ PEth, a metabolite, “accumulates when ethanol binds to the red blood cell membrane.” A PEth level “reflects the average amount of alcohol consumed over the previous [twenty-eight to thirty] days as red blood cells degrade and enzymatic action removes PEth.” Ex. 9 at 93.

3. The Individual was arrested and charged with DUI in November 2008, and in his 2014 Questionnaire for National Security Positions, the Individual admitted that he had “consumed two [twelve-ounce] beers and four pain killers prior to the incident.” *Id.*
4. The Individual was arrested and charged with Boating Under the Influence in 1989, and in his 1993 PSI, the Individual admitted that he had consumed six liquor and soda drinks prior to the incident. *Id.*
5. The Individual was arrested and charged with DUI in 1983. *Id.* The Individual told the DOE-consultant psychologist during his 1994 psychological evaluation that he had “consumed three to four drinks in a short period of time prior to his arrest.” *Id.*

The LSO’s invocation of Guideline G 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

The Individual described himself as a social drinker to the DOE Psychologist. Ex. 9 at 76. He indicated that his “social drinking began after he took his first professional job . . . in 1977.” *Id.* His consumption took place mostly on the weekends. *Id.* His alcohol consumption increased and decreased “to a small extent based on his marriages and divorces.” *Id.* In the early 1980s, the Individual sought treatment to remedy his sleeplessness, which “reduced his drinking because he did not have a glass of wine before bedtime to help him sleep.” *Id.* His alcohol consumption was reduced from three to four drinks per week to two to three drinks per week but increased again to

three to four drinks per week. *Id.* His alcohol consumption “tapered off” around 1989, and he drank “very little” alcohol during the time he was raising his children. *Id.* at 77. The Report indicates that he described his current alcohol consumption as of October 2024 as two nine-ounce glasses of wine with his dinner approximately three to four nights per week.⁸ Ex. 9 at 77. Although, he also noted that his consumption “varies.” *Id.* At the hearing, the Individual testified that his current consumption actually consisted of half a bottle of wine every weekend, with an additional half bottle once per month.⁹ Tr. at 36–37.

As indicated above, the Individual submitted to a PEth test in connection with the 2024 psychological evaluation. The PEth test result was interpreted by the DOE Psychiatrist who indicated that it suggested that the Individual was “underestimating the amount [of alcohol] he consumes.” Ex. 9 at 94–95. The DOE Psychologist determined that the Individual met three of the diagnostic criteria for AUD: that “[a]lcohol is often taken in larger amounts or over a longer period of time than was intended[,]” a “[s]trong desire to use alcohol[,]” and “[a]lcohol use is continued in spite of his awareness of the difficulties it has caused him.” *Id.* at 80. In deciding whether the Individual met the diagnostic criteria, the DOE Psychologist considered that the Individual “under-reports his use of alcohol and is drinking in larger amounts than he acknowledges,” which the DOE Psychologist inferred “demonstrates a strong desire to use alcohol[,]” and further, “he continues to drink despite the problems caused by his use of alcohol.” *Id.* The DOE Psychologist also expressed concern over his assessment that the Individual was under-reporting his alcohol consumption, as it could be in indication of “questionable judgment and trustworthiness.” *Id.*

The DOE Psychologist diagnosed the Individual with AUD, Mild. *Id.* He recommended that in order for the Individual to show adequate evidence of rehabilitation, he should attend and participate in a six-to-eight week “outpatient group treatment program with [one to two] group sessions per week followed by aftercare to complete treatment for [six] months.” *Id.* at 81. The Individual should also submit to monthly PEth tests for six months, the results of which should be negative for alcohol. *Id.* If the Individual “choose[s] a path of reformation instead of rehabilitation, he would need [twelve] months of negative PEth tests.” *Id.*

At the hearing, the Individual testified that the SSC provided “four examples of bad decisions [that he] made,” but that these incidents occurred between approximately three to forty-two years ago. Tr. at 15. He asserted that he is “not the same person, as [he has] matured and grown.” *Id.* Accordingly, he does not “drink and drive.” *Id.* He also indicated that the time between each incident suggests that he is “not a craver” of alcohol and does not desire it. *Id.* The Individual stated that he disagreed with the DOE Psychologist’s conclusions, as they were reached following only an hour-long interview and computer exercises, and were based on “subjective guidelines,”

⁸ The Individual testified that the DOE Psychologist either misunderstood or he was not clear about his current average alcohol consumption. Tr. at 29. He testified that he was clear to the DOE Psychologist that he is a “social drinker.” *Id.* He stated further that, as is consistent with the definition of social drinking, he drinks alcohol in a social setting, “but does not experience a related life disruption.” *Id.* at 32; Ex. H. He testified that he would “be unable to perform his work duties” if he was consuming the amount of alcohol the Report indicates that he consumes. Tr. at 29, 32. He also indicated that his social alcohol consumption not an “issue per se.” *Id.* at 63.

⁹ The Individual testified that he reduced his alcohol consumption approximately ten months prior to the hearing, achieving his current rate of alcohol consumption. Tr. at 64. Previously, he would consume one bottle of wine every week. *Id.* at 64–68.

as provided by the DSM-5-TR.¹⁰ *Id.* at 16. The Individual testified that he does not “believe [that he has] an alcohol use disorder . . . at all[.]” *Id.* at 42, 55. When asked whether he considered complying with the DOE Psychologist’s recommendations, he indicated that he had not, because he felt that “six months of going to an alcohol class, or whatever, seemed a little excessive.” *Id.* at 42.

The Individual’s supervisor, who has known the Individual for approximately six years, testified that he does not socialize with the Individual outside of work, and that he has never seen the Individual consume alcohol. *Id.* at 19–21, 24. He has never smelled alcohol about the Individual’s person, and he has never seen the Individual in a hungover or intoxicated state. *Id.* at 24. The Individual’s supervisor has also never received any complaints regarding any inappropriate alcohol consumption on the part of the Individual. *Id.* He did note that he is “extremely happy” with the Individual’s work performance, and he characterized the Individual’s reputation for judgment, honesty, and trustworthiness as “excellent.” *Id.* at 20, 25.

The DOE Psychiatrist testified that PEth is a “direct metabolite of consuming alcohol found on the red blood cell membrane.” *Id.* at 74. It provides a measure of the average amount of alcohol a person has consumed over the previous 28 to 30 days. *Id.* at 74–75. He testified that a PEth result of 20 to 200 nanograms per milliliter is considered indicative of moderate alcohol consumption. *Id.* at 76. Two hundred nanograms or more per milliliter is considered indicative of heavy alcohol consumption. *Id.* A man who drinks one alcohol drink per day will average about 20 nanograms per milliliter. *Id.* at 77. As the Individual’s PEth value was 227 ng/mL, it suggests that the Individual was “consuming heavy amounts of alcohol” in the 28 to 30 days before taking the test. *Id.* at 77–78.

The DOE Psychologist testified that in assessing the Individual, he not only considered the testing that was conducted, which includes the PEth results, but he also took the Individual’s self-reports into consideration. *Id.* at 92–93. The Individual’s PEth results and his self-reports resulted in the DOE Psychologist concluding that the Individual consumed more alcohol, on average, than he was reporting. *Id.* at 93. Further, he felt that based on the self-reports, the Individual had “a little more of a need to use alcohol to a chronic and excessive manner than what he was saying.” *Id.* Lastly, as the Individual’s fitness for an access authorization was brought into question, he was experiencing “work issues.” *Id.* When asked whether he heard anything during the hearing that would make him change the diagnosis he made in the November 2024 Report, the DOE Psychologist simply said, “no.” *Id.* at 97. He stated that the Individual was “fighting the whole notion of having an alcohol problem.” *Id.* at 104. The DOE Psychologist indicated that, as a result, the Individual’s prognosis is poor, and further, he has not shown adequate evidence of rehabilitation or reformation. *Id.* at 103–04.

¹⁰ With regard to the DOE Psychologist’s conclusion that the Individual’s “[a]lcohol use is continued in spite of his awareness of the difficulties it has caused him,” the Individual testified that he has not “been made aware of any problems.” Ex. 9 at 80; Tr. at 30. He described the DSM-5-TR as “a fill in the check box and then look at your score and see how it goes[.]” and stated further, that “there has not been objective evidence consistent” with the diagnostic tools employed by the DOE Psychologist. Tr. at 30–31. The DOE Psychologist testified that the DSM has been used in the mental health profession since the 1950s and confirmed that it is a tool that is regularly used in his profession. *Id.* at 102, 107. At the start of the hearing, the Individual stipulated that the DOE Psychologist is an expert in the field of clinical psychology, and that the DOE Psychiatrist is an expert in the field of psychiatry. *Id.* at 7.

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.

At the time of the hearing, the Individual had not taken any action to address or mitigate the stated concerns. He repeatedly stated during the hearing that he does not believe he has an AUD or any issues with alcohol. Although he admitted that his past DUIs and alcohol-related incidents caused him distress at the time, he denied any "problems" resulting from alcohol use. At the time of the hearing, the Individual had not engaged in any recent treatment, he had not discontinued his use of alcohol, he had not modified his alcohol consumption pursuant to any recommendation from an appropriate professional who renders treatment, and he had not engaged in any kind of support program, like Alcoholics Anonymous. While I understand that the Individual takes umbrage with the DSM-5-TR, the Individual has not provided me with a sufficient basis to find that the DSM-5-TR is not a proper tool to be used by a psychologist in making an AUD diagnosis. Rather, as the testimony indicates, it is a widely used and accepted tool in the mental health community. The Individual stipulated to the expertise of the DOE Psychologist in the field of clinical psychology and thus that he possessed sufficient expertise to make an AUD diagnosis.

The Individual indicated in his testimony that he has learned from every past alcohol-related incident, and that these incidents were far in the past. While I agree that some of these incidents are well in the past, the fact remains that the most recent alcohol-related incident occurred in 2022. Moreover, the record contains evidence of four alcohol-related incidents over a span of 40 years, which reveals a long-term pattern of alcohol-related behavior that reflects poorly on the

Individual's judgment. Therefore, I cannot conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (a).

As the Individual repeatedly stated during the hearing that he does not believe that he has issues with alcohol and has not stopped consuming alcohol, I cannot conclude that he has met the requirements of mitigating factor (b).

As the Individual has not engaged in any kind of treatment, mitigating factors (c) and (d) are not applicable.

For the aforementioned reasons, I find that none of the mitigating conditions are applicable to the facts of this case and therefore that the Individual 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 Guideline G concerns set forth in the SSC. Accordingly, the Individual has not demonstrated that granting 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 granted. 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