

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

In the Matter of: Personnel Security Hearing)
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Filing Date: April 17, 2025)
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_____)

Case No.: PSH-25-0108

Issued: September 12, 2025

Administrative Judge Decision

Andrew Dam, 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 be restored.

I. BACKGROUND

The Individual holds access authorization in connection with his employment with a DOE contractor. Exhibit (Ex.) 1 at 6.² On September 27, 2024, the Individual drove home from a restaurant after celebrating his stepson's birthday. *See* Ex. 10 at 69–70 (December 2024 report from a DOE consultant psychologist (DOE Psychologist)); Ex. 7 at 38 (October 2024 response to Letter of Interrogatory (LOI)); Ex. 6 at 26 (September 2024 Incident Report). The Individual consumed alcohol prior to driving and rear-ended another vehicle. Ex. 10 at 69–70; Ex. 7 at 38; Ex. 6 at 26. As a result of the car accident, police arrested the Individual and charged him with: "Driving While Under the Influence of Alcohol / Drugs (1st)" (DWI); "NO INSURANCE" (No Insurance); "CARELESS DRIVING" (Careless Driving); and "EVIDENCE OF REGISTRATION TO BE SIGNED AND EXHIBITED ON DEMAND" (No Registration). Ex. 6 at 27 (formatting in original). The Individual reported the arrest and charges to the LSO. *Id.* at 25–26.

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 Local Security Office (LSO) combined Exhibits 1–13 into a single PDF workbook. This Decision references to these exhibits by the exhibit number and the PDF page number.

The LSO referred the Individual for a psychological evaluation with the DOE Psychologist in December 2024. Ex. 10 at 67. The Individual and DOE Psychologist discussed the September 2024 DWI and his alcohol use generally. *Id.* at 69–71. During the evaluation, the Individual also disclosed that alcohol consumption contributed to a 2019 arrest and charge for “Battery of a Household Member” (Battery). *Id.* at 70. Following the evaluation, the DOE Psychologist issued a report (DOE Psychologist’s Report). *Id.* at 67–81. The DOE Psychologist ultimately opined that the Individual had an “Unspecified Alcohol-Related Disorder” pursuant to the *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)*, which is a condition that could impair his judgment, and that the Individual had not demonstrated rehabilitation or reformation. *Id.* at 73.

Based upon the DOE Psychologist’s Report, the September 2024 DWI arrest and related charges, and the Battery arrest and charge, the LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information creating substantial doubt regarding his eligibility for access authorization. Ex. 1 at 5–8. In the Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guidelines G and J of the Adjudicative Guidelines. *Id.* at 5. The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2 at 10–12. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter, and I conducted an administrative hearing. The LSO submitted thirteen exhibits (Ex. 1–13). The Individual submitted nine exhibits (Ex. A–I).³ The Individual testified on his own behalf and offered the testimony of three additional witnesses: (1) his counselor (Counselor) who provided outpatient treatment; (2) his supervisor (Supervisor); and (3) his friend (Friend) from church. Hearing Transcript, OHA Case No. PSH-25-0108 (Tr.) at 3. The LSO offered the DOE Psychologist as its sole witness, and the Individual stipulated to the DOE Psychologist’s expertise in psychology. *Id.* at 3, 8.

II. THE SECURITY CONCERNS

A. 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. Conditions that could raise security concerns include “alcohol-related incidents away from work, such as driving while under the influence [or] fighting . . .” and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder[.]” *See id.* at ¶ 22(a), (d). In citing Guideline G, the LSO cited to the opinion in the DOE Psychologist’s Report that the Individual has an Unspecified Alcohol-Related Disorder without evidence of adequate rehabilitation or reformation; the 2024 DWI; and the 2019 Battery, which the Individual admitted had involved prior alcohol

³ Prior to the hearing, DOE Counsel combined the Individual’s first six exhibits, A–F, into a single exhibit notebook. This Decision references Exhibits A–F by their exhibit letter and the page in the order in which the page appears in the exhibit notebook. The Individual submitted Exhibits G, H, and I as three separate PDFs, and accordingly, citations to these exhibits reference the page numbers in each PDF.

consumption. Ex. 1 at 5. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G.

B. Guideline J

Guideline J involves criminal activity “creat[ing] doubt about a person’s judgment, reliability, and trustworthiness.” Adjudicative Guidelines at ¶ 30. Criminal activity “calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* Conditions that could raise a security concern include “evidence . . . of criminal conduct, regardless of whether [an] individual was formally charged, prosecuted, or convicted.” *Id.* at ¶ 31(b). With respect to Guideline J, the LSO cited (1) the Individual’s September 2024 DWI and related charges,⁴ as well as (2) the 2019 Battery arrest and charge. Ex. 1 at 5. There is sufficient derogatory information in the possession of DOE to raise security concerns under Guideline J.

III. REGULATORY STANDARDS

A DOE administrative review proceeding under Part 710 requires me, as the Administrative Judge, to issue a Decision that reflects my comprehensive, common-sense judgment, made after consideration of all the relevant evidence, favorable and unfavorable, as to whether the granting or continuation of a person’s access authorization will not endanger the common defense and security and is clearly consistent with the national interest. 10 C.F.R. § 710.7(a). The regulatory standard implies that there is a presumption against granting or restoring a security clearance. *See Dep’t of Navy v. Egan*, 484 U.S. 518, 531 (1988) (“clearly consistent with the national interest” standard for granting security clearances indicates “that security determinations should err, if they must, on the side of denials”); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

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

⁴ The SSC makes no reference to the “No Registration” charge found in the municipal court records of the 2024 DWI and instead erroneously cites to a charge for “Unregistered Foreign Commercial Motor Carrier Vehicle Operations[.]” *Compare* Ex. 6 at 27 and Ex. 9 at 65 with Ex. 1 at 5. During the hearing, the Individual did not dispute that he had adequate notice of the LSO’s security concern regarding the “No Registration” charge. Tr. at 51–53.

IV. FINDINGS OF FACT

A. Individual's Background and Pattern of Alcohol Use

During his December 2024 evaluation with the DOE Psychologist, the Individual reported not drinking any alcohol until his 21st birthday.⁵ Ex. 10 at 70. The Individual explained that he refrained from drinking until 21 due to his involvement with high school sports, his social circle, and his father's substance abuse and addiction. *Id.* The Individual recounted that he and his uncle had found the Individual's father's body when he passed away from substance use and that his mother thus "cautioned him throughout his life to avoid substances." *Id.*

The Individual did not regularly drink alcohol until he and his wife moved to a new city when the Individual was around the age of 26. *Id.*; *see also* Ex. 12 at 98 (QNSP indicating that he had moved to his current city in 2017). At the hearing, the Individual explained that the move brought them closer to his wife's family and that the adults in her family typically drank together at parties. Tr. at 118 ("[A]ll their gatherings, that's . . . all the guys and adults did[] was pretty much drink during parties."). He further explained that he would drink with them since he "was meeting everyone" and trying to "fit in" and "get[] in conversation with people [he] didn't know." *Id.* The Individual reported that around this time his drinking pattern consisted of "'a couple of beers with dinner' on Friday and/or Saturday nights." Ex. 10 at 70. On long holiday weekends, his drinking would "spike[.]" *Id.* More specifically, "he might drink two nights rather than one [night]" and he would drink "as many as five to six IPA beers throughout the night with family and friends." *Id.* The Individual "acknowledged some of those nights he was intoxicated and recalled 'waking up with a headache.'" *Id.* He further estimated that he became intoxicated "once or twice a month, with [] five or six beers" over a three-to-four-hour period. *Id.* at 71. Aside from a 6-month period of sobriety between 2019 and 2020, *see infra* at Section IV(B), this remained his general pattern of alcohol consumption until September 2024 at age 34. Ex. 7 at 43; Ex. 10 at 71.

B. 2019 Battery Arrest and Charge

In November 2019, police arrested and charged the Individual with Battery. Ex. 10 at 70; Ex. 12 at 120; Ex. 13 at 205. The Individual disclosed that he and his wife had argued verbally and that the Individual's wife blocked a doorway, preventing him from leaving. Ex. 10 at 70; Ex. 13 at 205; Tr. at 70. The Individual called the police twice within a thirty-minute period. Ex. 10 at 70; Tr. at 70. The Individual maintains that he originally called the police because "[h]e did not want to put his hands on her to move her out of the way." Ex. 10 at 70; Ex. 13 at 205.

The police officers subsequently arrived and arrested the Individual for Battery. Ex. 10 at 70; Ex. 13 at 205; Tr. at 70. The Individual represents that he did not commit the alleged battery. Ex. 12 at 120; Tr. at 116 ("I never put my hands on her or anything."). At the hearing, the Individual testified there exists a "police video" wherein his wife told the police that "he didn't put his hands on [her]." Tr. at 115. In his testimony, the Individual explained the police told him and his wife that "because of the severity of the call . . . someone had to go to jail that night[.]" and that he "let them [the police] take [him]" rather than his wife. *Id.* at 71. The Individual spent three nights in

⁵ The Individual turned 21 in 2011. Ex. 12 at 97 (indicating his birthyear as 1990).

jail. *Id.* His wife declined to cooperate with the Individual's prosecution, and the charges were eventually dropped. Ex. 10 at 70; Ex. 13 at 205–06, 232; Ex. 12 at 120.

During his December 2024 evaluation with the DOE Psychologist, the Individual admitted that he and his wife had been drinking at the time of the dispute and acknowledged that alcohol contributed to the dispute and his subsequent arrest. Ex. 10 at 70; *see also* Tr. at 70 (Individual's admission that "[a]lcohol was involved"). The Individual testified to staying sober for six months after the arrest. Tr. at 72. The Individual further testified that, after the arrest, he and his wife talked about their marriage and the environment they wanted to provide for their children. *Id.* at 72–73. Accordingly, they went to marriage counseling. *Id.* at 116–17. From the counseling, they adjusted how they handle disagreements: "So we pray about it first, and then we come [up with] pros and cons together, and then we come to a conclusion together." *Id.* at 117. However, they did not discuss at length the role that alcohol had played in their dispute. *Id.*

C. September 2024 DWI and Related Charges

On September 27, 2024, the Individual and his family went to a restaurant to celebrate his stepson's birthday. Ex. 10 at 69. Over an estimated two-and-a-half-hour period, the Individual drank an IPA before arriving to the restaurant and subsequently drank an IPA and a "strong" margarita at the restaurant. *Id.* at 69–70. The Individual left the restaurant in his car and rear-ended another vehicle. *Id.* at 69; Ex. 7 at 38; Ex. 6 at 26. When arriving on the scene, police observed the "odor of alcohol" and conducted field sobriety tests and a breathalyzer test on the Individual. Ex. 7 at 38; Ex. 6 at 26, 28. The Individual's blood alcohol concentration (BAC) was .14. Ex. 6 at 28. Accordingly, he was arrested, and his license was revoked. *Id.* at 26–33. The Individual was charged with a DWI, No Insurance, Careless Driving, and No Registration. *See id.* at 27. At the hearing, the Individual admitted that this was not his first time driving after drinking at a restaurant and that, prior to this arrest, it occurred approximately three times per year. Tr. at 119.

The Individual spent two nights in jail. *Id.* at 69. After being released, the Individual walked five miles, and then his wife picked him up. *Id.* He recounted that they had a serious and emotional conversation. *Id.* at 69–70. The Individual testified that his wife expressed her intent to divorce the Individual "if something like this were to happen again" and that he "cried" and "apologized" *Id.* The Individual maintains that he stopped drinking alcohol after the September 2024 DWI. *Id.* at 68; *see also* Ex. D at 16 (October 31, 2024, negative [Phosphatidylethanol (PEth)]⁶ test result corroborating claim of sobriety beginning in late September 2024).

D. Fitness for Duty Requirements and Recommendations, Counseling, Current Behavior Regarding Alcohol, and Related Testimony

After the DOE contractor learned of the September 2024 arrest, the DOE contractor placed the Individual in the DOE contractor's Fitness for Duty (FFD) program. Ex. 10 at 70–71. The FFD program then required that the Individual submit to random urine and breath tests for alcohol use.

⁶ A "PEth test detects any significant alcohol use over the past three to four weeks." Ex. 10 at 72. "PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption." *Id.* at 78. PEth levels of "[l]ess than 20 ng/mL" evince either "[a]bstinence or light alcohol consumption[.]" Ex. D at 17, 19–23.

Id.; Tr. at 120–21. The results of the random weekly testing, occurring from November 6, 2024, to January 22, 2025, all returned negative for alcohol. Ex. D at 24–43. The Individual also submitted negative PEth tests from samples collected on October 31, 2024, December 2, 2024; January 24, 2025; February 27, 2025; April 29, 2025; June 26, 2025; July 25, 2025; and August 8, 2025⁷—each corroborating abstinence over the preceding three-to-four weeks. *Id.* at 15–17, 19–23; Ex. F at 55; Ex. 10 at 72.

The FFD program also recommended to the Individual (1) counseling with a psychologist (Treating Psychologist) and (2) enrollment in an intensive outpatient program (IOP). Tr. at 120–21; Ex. 10 at 70–71. Prior to this point, the Individual had never received treatment for his alcohol use. Ex. 10 at 71. In accordance with the first FFD recommendation, the Individual met with the Treating Psychologist, a Licensed Alcohol and Drug Abuse Counselor, for ten individual counseling sessions from November 2024 to January 2025. *Id.* at 73; Ex. C at 10. The Treating Psychologist’s letter, dated May 24, 2025, described the Individual as “honest and forthcoming.” Ex. C at 10. She further observed that the Individual “[found] sobriety very easy” and “enjoy[ed] being clear[-]minded.” *Id.* Based on these observations, the Treating Psychologist indicated that she “d[id] not believe that [the Individual] ha[d] an alcohol problem” as of the date of her letter. *Id.*

Regarding the FFD’s second recommendation that the Individual enroll in an IOP, the FFD referred the Individual to a specific IOP. Tr. at 87–88; Ex. A at 4–7. In April 2025, the Individual underwent a screening assessment with the IOP. Tr. at 87–88; Ex. A at 4–7. The IOP’s licensed clinical social worker diagnosed the Individual with “Alcohol Abuse, Uncomplicated, Improved” but ultimately did not accept the Individual into the program, as he “d[id] not meet [the IOP’s] criteria.” Ex. A at 4.⁸ However, the IOP “recommend[ed] . . . [o]utpatient [t]reatment” that was not intensive outpatient treatment and provided contact information for specific service providers. *Id.*; Tr. at 90–91.

The Individual thereafter contacted one of the recommended outpatient treatment providers and began treatment with his Counselor.⁹ Tr. at 87. The Counselor met with the Individual six times from June 2025 to July 2025. *Id.* at 23; Ex. C at 11. The Counselor testified that he diagnosed the

⁷ The Individual was asked about the lack of PEth testing from late March 2025 and late May 2025. Tr. at 135. The Individual testified that his PEth testing was scheduled for recurring appointments at the end of the month but that he missed the March 2025 testing to attend his grandmother’s funeral. *Id.* at 135–36. He had consulted the FFD officer and continued with the set April 2025 appointment. *Id.* at 135. Regarding the lack of a May 2025 test result, the Individual indicated he did undergo a PEth test that month and believed he had the document containing the results, but ultimately did not submit it before the close of the record. *Id.* at 136.

⁸ The IOP’s licensed clinical social worker did not explain in her screening and assessment why the Individual did not meet the IOP’s criteria. *See* Ex. A at 4–5. The Individual testified that he called the IOP for clarification but never received a call back. Tr. at 88. The Individual’s Counselor testified that he believed that the IOP possibly declined to admit the Individual given that the IOP might typically provide services to those with a higher level of need. *Id.* at 37. The DOE Psychologist also opined that the IOP was likely not appropriate for the Individual given that the Individual’s level of alcohol problem was not “severe” enough. *Id.* at 124.

⁹ The Counselor has a master’s degree in counseling. Tr. at 14; Ex. I at 1. The Counselor also has more than a decade of experience in substance abuse treatment, including management of an IOP. Tr. at 14–16; Ex. I at 2.

Individual with alcohol abuse though he “d[id not] think [the Individual] came in in a . . . problematic state.” Tr. at 29. The Counselor recalled that the Individual, during the sessions, shared his “perspective on alcohol use . . . and the negative consequences” *Id.* According to the Counselor’s testimony, the Individual understood the “pros and cons of abstinence” having identified “short-term [benefits] like saving money, not having DUIs, spending time with family” and “long-term positive reinforcers of sobriety” such as ‘being a good role model to his kids, pursuing a career [with the DOE contractor] . . . , [and] buying property” *Id.* at 31–32. The Counselor believed the Individual was motivated to stay sober: “I am optimistic about [his sobriety.] I believe his prognosis is positive based on his insight, his motivation to be . . . a good father, provide for his family, and to advance his career.”¹⁰ *Id.* at 32. The Counselor discharged the Individual from his care after six sessions and recommended no further aftercare. *Id.* at 32–33.

Regarding his treatment, the Individual testified that he and his clinicians worked on identifying his “triggers” and figuring out “what [he] can do to stay away from alcohol.” *Id.* at 86. The Individual identified social events with his wife’s family, sporting events, barbeques, and similar environments as potential triggers for himself. *Id.* at 118–19. To cope with those triggers, the Individual explained that he avoided certain environments: “I would never be in a bar anymore” *Id.* at 109. He also no longer keeps alcohol in his home. *Id.* at 120. Regarding other environments, such as sporting events, the Individual indicated that he “refrain[s] from [alcohol]” and “goe[s] to prayer.” *Id.* at 109. He indicated that, if he needs “to remove [him]self from a situation” where alcohol is present, then he would. *Id.*

As another example, the Individual recalled attending a nephew’s birthday party, during which other adults started consuming alcohol. *Id.* at 110. The Individual and his wife said their goodbyes and left the party. *Id.* The Individual expressed that they had no difficulty leaving the party and that “[i]t actually felt good after.” *Id.* The Individual testified that the DWI and treatment has also changed his mindset regarding social activities. *Id.* at 75. In particular, the Individual testified that when thinking about weekend events “instead of thinking . . . what beer do they have . . . now [he] think[s] of [his] kids and what activities can [they] do” *Id.*

The Individual has “[z]ero” intention to return to any kind of alcohol consumption. *Id.* at 79. When asked if he could see himself drinking during a celebration in ten years, perhaps during one of his children’s weddings, he explained he could not ever see himself drinking alcohol:

I can’t see myself returning to [alcohol], because it goes back to the . . . foundation I want to set for my kids I want them to learn from my mistakes and to see what I went through. And so I would never want to put that back in their mind that [returning to alcohol use] would be okay.

Id. at 110–11.

Regarding his support network, the Individual made numerous mentions of his wife, who has been sober for two-and-a-half years; indicated that his mother is supportive of his sobriety; and testified

¹⁰ During the hearing, the Individual’s Supervisor remarked that the Individual had “a lot of potential in his career moving forward.” Tr. at 48. The Individual later testified, “after hearing [my Supervisor] speak highly o[f] me, it . . . gives me more motivation to never come to any chance of ruining [my career].” *Id.* at 79.

that, since the 2024 DWI, he has participated more actively in his church. *Id.* at 73–75, 112–13. After the DWI, he and his family consulted their pastor about his DWI and for support in maintaining his sobriety. *Id.* at 134. The Individual joined a support group at church for men. *Id.* at 74–75; *see also id.* at 55 (Individual’s Friend testifying as to his participation in the men’s support group); Ex. B at 12–13 (record of attendance in church group). The Individual’s Friend, who leads the group, explained that the group is meant to facilitate the church community’s men in sharing about their personal struggles, which include alcohol and substance use. Tr. at 60–61. The group was only a few months old at the time of the hearing and the Individual only attended a few of the bi-weekly meetings. *Id.* at 61. However, the Individual indicated that he intends to attend indefinitely, has discussed his sobriety with the group, and has already referred some of the men in the group to his Treating Psychologist. *Id.* at 95–96.

E. January 2025 Guilty Plea and Related Terms of Probation

In January 2025, the Individual pled guilty to a “SIMPLE DWI” and the rest of the charges were dismissed. Ex. H at 1–2 (formatting in original). The sentencing court also ordered that the Individual be placed under supervised probation for 364 days with the following conditions: (1) 24 hours of community service, (2) completion of DWI school, (3) attendance at a Victim Impact Panel, (4) installation of an interlock for one year, and (5) no other criminal/traffic offenses. *Id.* at 3. The Individual submitted community service attendance records, reflecting 24 hours of service with a youth center; a certificate of completion from the DWI school; and an email evincing his attendance at a Victim Impact Panel. *See* Ex. E at 51–54.

At the hearing, the Individual described that the DWI school and Victim Impact Panel affected him “big time.” Tr. at 104. The Individual found the stories of drunk driving victims and their families compelling given his own relationship with his children and wife:

[I]f I were to hit someone while I was drinking that night . . . I get to, . . . even if it w[ere] behind bars, still live, and these people have to go the rest of their li[ves] without a family member . . . And so[,] it hit home for me . . . because I do have kids and a wife and they mean more to me than anybody.

Id.

Regarding the interlock requirement, the Individual submitted receipts from the interlock installation company dated January 29, 2025; February 27, 2025; March 28, 2025; April 30, 2025; May 29, 2025; and June 27, 2025. Ex. E at 45–50. The receipts reflect a payment for the interlock’s reset every month. *Id.*; Tr. at 105–06. The Individual explained that the interlock receipt would reflect a separate line item and charge if the interlock device were triggered by a failed test. Tr. at 77–78, 105. He further explained that, if he had failed an interlock test, his probation officer would be contacted and that there would be legal consequences. *Id.* at 78. The Individual testified that he submitted those receipts to show that there were “zero charges[.]” *Id.*

The Individual testified that he continues to comply with the terms of his probation and believes that he will successfully complete all requirements in November or December 2025. *Id.* at 108.

The Individual indicated that, once his probation ends, he is confident in his ability to remain sober even without monitoring from the legal system. *Id.* at 78–79.

F. DOE Psychologist’s Report and Related Testimony

Contemporaneous with the Individual’s participation in the FFD program, the LSO referred the Individual for an evaluation with the DOE Psychologist in December 2024. Ex. 10 at 68. As part of the evaluation, the DOE Psychologist (1) reviewed the personnel security documentation, (2) conducted a clinical interview of the Individual, and (3) reviewed a chain-of-custody PETH test from a December 2024 sample, the results of which were negative. *Id.* at 69, 72. During the interview, the Individual recounted the frequency of his drinking prior to his DWI and the circumstances surrounding his DWI, as described above in Sections IV(A) and (C). *Id.* at 69–71. At the hearing, the DOE Psychologist explained that the Individual did not meet the *DSM-5* diagnostic criteria for Alcohol Use Disorder (AUD). Tr. at 126–28. However, the *DSM-5* includes the diagnosis of “[U]nspecified [A]lcohol-[R]elated [D]isorder” which “allow clinicians the latitude to say there is clearly an issue or problem [with alcohol] that needs to be addressed” that falls “outside . . . those specific criteria listed in the . . . alcohol use disorder[].” *Id.* at 126. The DOE Psychologist explained that she diagnosed the Individual with Unspecified Alcohol-Related Disorder given the Individual’s 2024 DWI and given that the Individual had “repeatedly” been to “jail” in relation to his alcohol use. *Id.* at 128.

In her Report, the DOE Psychologist found a lack of adequate evidence of rehabilitation and reformation.¹¹ Ex. 10 at 67. In part, she based her conclusion on the insufficient passage of time, the Individual only having three months of sobriety when evaluated. Tr. at 129. She also considered that the Individual had not yet completed the treatment recommended to him by the FFD. *Id.* at 130.

With respect to the FFD recommendations, she observed that the Individual, at the time of the evaluation, “await[ed] admission to the IOP . . .” Ex. 10 at 73. Accordingly, the DOE Psychologist opined that the Individual could demonstrate rehabilitation if he (1) completed the IOP, (2) continued in IOP aftercare as directed, and (3) continued obtaining contemporaneous monthly PETH tests. *Id.* However, during the hearing, the DOE Psychologist clarified that she, herself, did not believe an IOP necessary for the Individual’s rehabilitation given that the Individual’s alcohol problem was not sufficiently severe. Tr. at 124, 132–33.

At the time of the hearing, the DOE Psychologist opined that the Individual had provided adequate evidence of both rehabilitation and reformation and that the Individual had a good prognosis with respect to his continued abstinence. *Id.* at 130–31. In forming this opinion and prognosis, the DOE Psychologist observed that the Individual appeared “genuine,” “sincere,” and “committed” to abstinence. *Id.* at 131. In particular, she cited the length of sobriety at the time of the hearing, the work he had done in treatment, his compliance with the various recommendations made, the support of his family and church community, and the importance the Individual placed on sobriety in his family life. *Id.*

¹¹ The DOE Psychologist explained that “rehabilitation refers to professional intervention” while “reformation . . . is the life changes that [one] has made . . .” Tr. at 130.

V. ANALYSIS

A. Guideline G

Conditions that could mitigate security concerns under Guideline G include:

- (a) so much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual's current reliability, trustworthiness, or judgment;
- (b) the individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) the individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; 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 the Individual's "behavior" or "pattern of maladaptive alcohol use[.]" the Individual admitted that the problematic alcohol consumption—specifically, intoxication once or twice a month with five or six beers—began in approximately 2017. It largely continued until the 2024 DWI, not including a brief six-month period of abstinence in 2019 after his Battery arrest. He also estimated that he drank and drove approximately three times per year. At the hearing, the Individual testified to having abstained from alcohol for approximately eleven months.

Regarding the first mitigating condition, the above pattern of alcohol use occurred regularly and up until about eleven months prior to the hearing. While this period of sobriety is commendable, it provides less comparative probative weight than the Individual's regular problematic consumption over seven years, a time period which included his 2019 Battery charge and 2024 DWI. 10 C.F.R. § 710.7(c) (requiring consideration of "the nature, extent, and seriousness of the conduct" and "the frequency and recency of the conduct"). Additionally, this pattern of problematic drinking occurred in relatively mundane social situations. I find that mitigating condition (a) does not apply.

Regarding the second mitigating condition, testimony and letters from the Individual, his Friend from church, and his treating clinicians demonstrate that the Individual has openly acknowledged a problem with his alcohol use. As for steps taken to overcome the problem, the Individual completed his treatment with his Treating Psychologist and attempted to enroll in the IOP as

directed by the FFD program. When not accepted into the IOP for his incompatibility with the program, the Individual contacted a suggested outpatient service provider recommended to him by the IOP, where he met his Counselor. Testimony from his Counselor and from the Individual demonstrates the efficacy of the treatment. The Individual has identified his triggers, developed coping mechanisms for addressing those triggers, and articulated short-term and long-term motivators for his sobriety. Compellingly, the Individual recounted specific examples of occasions on which he faced exposure to his triggers and executed those coping mechanisms. The Individual's additional support from his church community and wife further buttress his sobriety. The above also evinces that the Individual established a clear pattern of abstinence, having abstained from alcohol consumption over the last eleven months.¹² Further, the DOE Psychologist agreed that the Individual adequately demonstrated both rehabilitation and reformation. Accordingly, mitigating condition (b) applies.

Regarding the third mitigating condition, the Individual has completed treatment but is not currently enrolled in treatment. Accordingly, mitigating condition (c) does not apply.

Regarding the fourth mitigating condition, the Individual completed the required sessions with his Treating Psychologist and completed outpatient services with his Counselor. His Counselor, at the hearing, also recommended no further aftercare. For the reasons stated above, I have found that the Individual has established a clear pattern of abstinence, insofar as the Individual has sincerely engaged with his treatment, made meaningful changes to his life, and credibly demonstrated eleven months of sobriety. Mitigating condition (d) applies.

Accordingly, I find that the Individual has satisfied mitigating conditions (b) and (d) under Guideline G, and that the Individual has resolved the security concerns asserted by the LSO.

B. Guideline J

Conditions that could mitigate security concerns under Guideline J include:

- (a) so much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) the individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) no reliable evidence to support that the individual committed the offense; and

¹² The Individual lacks PEth testing for March 2025 and May 2025. However, I find the Individual credible and thus accept his representation that he remained sober for the entirety of the eleven months. The Individual, during the hearing, demonstrated insight into the negative role alcohol played in his professional and personal life, specifically with respect to his wife and children. Furthermore, that the Individual freely disclosed information not uncovered in the investigative process but easily considered unfavorable—in particular, that prior to the 2024 DWI he had regularly drank alcohol and driven—demonstrates that the Individual was generally forthcoming about unfavorable information. Accordingly, I credit his testimony that he remained sober since the September 2024 DWI.

- (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.

Regarding the first mitigating condition, at the time of the hearing less than a year had passed since the 2024 DWI, and the Individual admitted to drinking and driving regularly for several years prior. Furthermore, the DWI occurred under mundane circumstances, specifically after a family birthday party at a restaurant. I cannot find mitigating condition (a) applies.

Regarding mitigating condition (b), there exists no evidence that the Individual felt pressured or coerced into committing his crimes. I cannot find that mitigating condition (b) applies.

Regarding mitigating condition (c), the Individual provided some testimony that brings into question whether the Individual engaged in the behavior that led to the 2019 Battery charge. However, the Individual admitted to the 2024 DWI. Mitigating condition (c) cannot resolve the concerns.

Regarding mitigating condition (d), the Individual sufficiently demonstrated rehabilitation from his criminal behavior. To start, regarding the dispute leading to the 2019 arrest, the Individual provided testimony that he and his wife went to therapy and now handle conflict in an appropriate manner. Regarding the role alcohol played in the 2019 Battery and the 2024 DWI, I find the alcohol-related treatment, the Individual's ability to identify triggers and employ coping mechanisms, and sustained abstinence—all discussed in Section V(A)—to be highly probative of his rehabilitation with respect to his criminal behavior. I also find that the Individual has, to date, complied successfully with the terms of his probation, having completed the required classes through the DWI School, attendance of the Victim Impact Panel, and participation in community service. In particular, the Individual demonstrated insight into the dangers of drinking and driving and serious remorse for his own misbehavior when reflecting upon his attendance of the Victim Impact Panel. That he is taking his probation and sobriety seriously leads me to believe that the Individual has rehabilitated from his alcohol-related criminal behavior. Mitigating condition (d) applies.

Accordingly, I find that the Individual has satisfied mitigating condition (d) under Guideline J, and that the Individual has resolved the security concerns asserted by the LSO.

VI. CONCLUSION

Above, I found that there existed sufficient derogatory information in the possession of DOE to raise security concerns under Guidelines G and J of the Adjudicative Guidelines. After considering all the relevant information, 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 brought forth sufficient evidence to resolve the security concerns set forth under Guidelines G and J. Accordingly, I find the Individual has demonstrated that restoring his

security clearance would not endanger the common defense and security and would be clearly consistent with the national interest. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Andrew Dam
Administrative Judge
Office of Hearings and Appeals