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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: May 5, 2025)
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_____)

Case No.: PSH-25-0116

Issued: October 2, 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 be restored.

I. Background

To begin the application process for an access authorization, the Individual completed a Questionnaire for National Security Positions (QNSP) in February 2022. Exhibit (Ex.)12.² The Individual disclosed in the QNSP that he had been charged with Driving While Intoxicated (DWI) in 2006. *Id.* at 119. As part of the investigation process, the Individual underwent an Enhanced Subject Interview (ESI), which was conducted by an investigator in March 2022. Ex. 14 at 208. During the ESI, the Individual was confronted with criminal charges that he did not disclose in the QNSP. *Id.* at 211–12. As a result of the information disclosed during the ESI, the Local Security Office (LSO) asked the Individual to complete a Letter of Interrogatory (LOI), which he submitted in June 2022. Ex. 9. In the LOI, the Individual confirmed that he had been arrested and charged with various crimes, including Speeding, Following Too Closely, No Passing Zones, Chauffeurs Must be Licensed, Failure to Appear, and DWI. *Id.* at 58–60.

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

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

The Individual subsequently received his access authorization. In August 2024, the Individual properly reported to DOE that several days prior, he was arrested and charged with Aggravated Driving While Under the Influence of Intoxicating Liquor or Drugs (ADWI) and “Negligent Use of a Deadly Weapon (Intoxication).” Ex. 7 at 31, 35. The Individual completed a second LOI, answering questions about the most recent incident and past incidents, in October 2024. Ex. 8.

The LSO subsequently asked the Individual to see a DOE-consultant psychiatrist (DOE Psychiatrist) for a psychiatric evaluation in December 2024, for which the Individual also submitted to a phosphatidylethanol (PEth) test.³ Ex. 10. The DOE Psychiatrist issued a report (the Report) of his findings later in the same month. *Id.* In the Report, the DOE Psychiatrist concluded that pursuant to the *Diagnostic and Statistical Manual of Mental Disorders—Fifth Edition*, the Individual suffered from Alcohol Use Disorder (AUD), Mild, In Early Remission, without adequate evidence of rehabilitation or reformation. *Id.* at 126. The DOE Psychiatrist also concluded that the Individual “is a binge consumer of alcohol.” *Id.*

The LSO began the present administrative review proceeding by issuing a letter (Notification Letter) to the Individual in which it notified him that it possessed reliable information that created a substantial doubt regarding his continued eligibility for access authorization. In a Summary of Security Concerns (SSC) attached to the Notification Letter, the LSO explained that the derogatory information raised security concerns under Guidelines G (Alcohol Consumption) and J (Criminal Conduct) of the Adjudicative Guidelines. Ex. 1. The Notification Letter informed the Individual that he was entitled to a hearing before an Administrative Judge to resolve the substantial doubt regarding his eligibility to hold a security clearance. *See* 10 C.F.R. § 710.21.

The Individual requested a hearing, and the LSO forwarded the Individual’s request to the Office of Hearings and Appeals (OHA). The Director of OHA appointed me as Administrative Judge in this matter. At the hearing I convened pursuant to 10 C.F.R. § 710.25(d), (e), and (g), the Individual testified on his own behalf and presented the testimony of his employer’s Employee Assistance Program (EAP) counselor, his friend, and his cousin. *See* Transcript of Hearing, OHA Case No. PSH-25-0116 (hereinafter cited as “Tr.”) The Individual also submitted eleven exhibits, marked Exhibits A through K. The DOE Counsel submitted fourteen exhibits marked as Exhibits 1 through 14 and presented the testimony of the DOE Psychiatrist.

II. Notification Letter

Guideline G

Under Guideline G, “[e]xcessive alcohol consumption often leads to the exercise of questionable judgment or the failure to control impulses, and can raise questions about an individual’s reliability and trustworthiness.” Adjudicative Guidelines at ¶ 21. Among those conditions set forth in the Adjudicative Guidelines that could raise a disqualifying security concern are “alcohol-related incidents away from work, such as driving while under the influence[,]” the “habitual or binge consumption of alcohol to the point of impaired judgment[,]” and “diagnosis by a duly qualified

³ “PEth can only be made when consumed ethyl alcohol reacts with a compound in the Red Blood Cell (RBC) membrane. PEth builds up in the RBC with repeated drinking episodes[.]” Ex. 10 at 72. Accordingly, “PEth can still be detected in the blood for about [twenty-eight] days after alcohol consumption has ceased.” *Id.*

medical or mental health professional . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (c)–(d). Under Guideline G, the LSO alleged that:

1. In December 2024, the DOE Psychiatrist diagnosed the Individual with AUD, Mild, In Early Remission, and concluded that the Individual is “a binge consumer of alcohol to the point of impaired judgment,” without adequate evidence of rehabilitation or reformation. *Ex. 1* at 5.
2. In August 2024, the Individual was arrested and charged with ADWI (.16 or above) and Negligent Use of a Firearm (Intoxication), after the Individual consumed five, twelve-ounce beers “and three shots of whiskey.” *Id.* The Individual’s breath alcohol test results registered at .17. *Id.*
3. In August 2006, the Individual was arrested and charged with DWI, “after he consumed six beers and five shots of liquor.” *Id.*
4. In October 2004, the Individual was arrested and charged with Minor in Possession of Alcohol, “after he consumed and shared a [forty-ounce] beer with another person.” *Id.*

The LSO’s invocation of Guideline G is justified.

Guideline J

Guideline J states that “[c]riminal activity creates doubt about a person’s judgment, reliability, and trustworthiness” and that, “[b]y its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Adjudicative Guidelines* at ¶ 30. Conditions that could raise a security concern under Guideline J include “[e]vidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted[.]” *Id.* at ¶ 31(b). Under Guideline J, the LSO alleged that:

1. In August 2024, the Individual was arrested and charged with ADWI, Negligent Use of a Firearm (Intoxication), and Speeding. *Id.* at 5.
2. The Individual was cited with Speeding in July 2021 and May 2019. *Id.* at 5–6.
3. The Individual was cited with Display of Current Valid Registration Plate in July 2018. *Id.* at 6.
4. The Individual cited with Mandatory Use of Seatbelts and Chauffeurs Must be Licensed in May 2017. *Id.*
5. The Individual was cited with No Passing Zones and Restrictions on Passing in March 2012. *Id.*

6. The Individual was cited with Unlawful Use of a License, Driving while License Suspended/Revoked, Mandatory Financial Responsibility, and Mandatory Use of Seatbelts in April 2009. *Id.*
7. The Individual was cited with Failure to Appeal (warrant) in May 2009 and August 2009. *Id.*
8. A bench warranted was issued to the Individual for Failure to Comply with Court Requirements in March 2008. *Id.*
9. The Individual was arrested and charged with DWI in August 2006. *Id.*
10. The Individual was cited with Operator and Chauffeurs Must be Licensed in January 2006. *Id.*
11. The Individual was arrested and charged with Possession of Marijuana (under eight ounces) and Possession of Deadly Weapons in January 2005. *Id.*
12. The Individual was arrested and charged with Minor in Possession of Alcohol in October 2004. *Id.*
13. The Individual was charged with Battery in April 2004. *Id.* at 7.
14. The Individual was charged with Disorderly Conduct in January 2004. *Id.*

The LSO's invocation of Guideline J is justified.

III. Regulatory Standards

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

The individual must come forward at the hearing with evidence to convince the DOE that granting or restoring access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." 10 C.F.R. § 710.27(d). The individual is afforded a full opportunity to present evidence supporting his eligibility for an access authorization. The Part 710 regulations are drafted so as to permit the introduction of a very broad range of evidence at personnel security hearings. Even appropriate hearsay evidence may be admitted. *Id.* § 710.26(h).

Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

IV. Findings of Fact and Hearing Testimony

Prior to the 2006 DWI, the Individual consumed approximately six beers and five shots at a family function. Ex. 10 at 68; Tr. at 57. He decided to go for a drive with some of the function attendees and struck a roadblock. Tr. at 57. Pursuant to a court order, the Individual attended Alcoholics Anonymous (AA) meetings the same year, but failed to attend the requisite number of meetings. Ex. 10 at 68. The Individual also failed to complete the requisite number of community service hours, as ordered by the court. *Id.* The Individual indicated that “he was ‘young and made bad choices’ in doing this.” *Id.* Following this incident, “after the age of [twenty,]” the Individual reduced his alcohol consumption, consuming “two or three beers” approximately “a couple of times a month[.]” *Id.*

The Individual indicated in his October 2024 LOI that when he was drinking alcohol, he was not drinking “very often,” as he would consume alcohol “maybe twice a month and usually at home[.]” Ex. 8 at 46–47. The Individual went on to explain that on the occasions he was arrested for alcohol-related offenses, it was following a “gathering or [an] event[.]” that caused him to consume more alcohol than he normally would. *Id.* at 46. When he would drink at home, he would drink “no more than [two] to [three] beers at a time.” *Id.* at 47.

Sometime in adulthood, the Individual began experiencing chronic stomach pain, which was aggravated by alcohol use. Tr. at 44, 64–65. Nonetheless, he continued to consume alcohol, and on the day of the August 2024 ADWI charge,⁴ the Individual was drinking alcohol with a group of people while outdoors. *Id.* at 64–65. While on the way home with his wife that evening, the Individual was pulled over by law enforcement after he “roll[ed] through a stop sign[.]” Ex. 7 at 31, 35; Ex. 6 at 28. The law enforcement officer “smelled a strong odor of alcoholic beverage emitting from within the vehicle” when the officer approached the driver’s side window. Ex. 7 at 35. The Individual was asked to get out of the vehicle and walk to the law enforcement officer’s police vehicle. *Id.* The officer asked the Individual whether he had been consuming alcohol, and the Individual confirmed that he had. *Id.* The Individual told the officer that he had consumed “three to four, [twelve-ounce] cans of alcohol beverages” prior to driving.⁵ *Id.* The officer asked the Individual to perform field sobriety tests, which he failed. *Id.* The Individual told the officer that he was in possession of a loaded firearm in his vehicle, which the officer seized. *Id.* When the Individual was transported to the police department, the Individual submitted to a breath test, which returned a result of .17. *Id.*

The Individual admitted that although he was not “falling over or heavily drunk” on the day of the 2024 incident, he did realize that he was impaired. Ex. 8 at 39; Tr. at 68. He also indicated that he was in possession of a concealed carry permit, and he provided that information to the arresting officer. Ex. 8 at 39.

⁴ The ADWI and related charges were ultimately dismissed. Tr. at 73–74; Ex. E at 27.

⁵ The Individual indicated in his October 2024 LOI and informed the DOE Psychiatrist that he had consumed five twelve-ounce beers and three shots of liquor. Ex. 8 at 38; Ex. 10 at 69.

Soon after the 2024 incident, the Individual was placed in his employer's Fitness for Duty (FFD) program conducted by Occupational Medicine. Ex. 10 at 69; Ex. A at 5. Pursuant to the requirements of the FFD program, the Individual saw an FFD psychologist several times for an evaluation and an FFD counselor for counseling sessions, which initially took place on a weekly basis, but ultimately were conducted on a biweekly basis. Ex. 10 at 69; Ex. A at 5. The Individual also enrolled in his employer's EAP's alcohol education program, completing the course in October 2024.⁶ Ex. 10 at 69; Ex. B at 21; Ex. C at 23. In May 2025, the Individual began attending a twelve-week EAP class designed to provide participants with alcohol cessation support.⁷ Tr. at 19–20; Ex. B at 19; Ex. D at 25; Ex. F at 29. The Individual began attending AA meetings in December 2024, and at the time of the hearing, he had attended twenty-seven meetings.⁸ Tr. at 75, 77; Ex. G at 31–33. Although the Individual does not have a sponsor and is not working the Twelve Steps, he does participate in AA meetings.⁹ Tr. at 85–87, 92.

In making the AUD diagnosis, the DOE Psychiatrist weighed the 2024 ADWI arrest “heavily” and determined that it was a “significant clinical finding.” Ex. 10 at 72. The DOE Psychiatrist also noted that the Individual “did not responsibly manage his first alcohol-related arrest and had two subsequent arrests regarding [alcohol].” *Id.* Further, the “DWI arrest[s] involved high levels of intoxication,” and his most recent DWI arrest was while he held an access authorization. *Id.* The DOE Psychiatrist specifically noted the following diagnostic criteria that the Individual met: the Individual drank larger amounts of alcohol over a longer period of time than intended, he experienced unsuccessful efforts to cut down or control alcohol use, and there was recurrent alcohol use in situations in which it is physically hazardous. *Id.* at 73. However, as the Individual had not consumed alcohol in approximately four months at the time he saw the DOE Psychologist, which was confirmed in part by the negative result of the PEth test he underwent at the time of the evaluation, the DOE Psychologist determined that the Individual was in early remission. *Id.* at 72. Finally, the DOE Psychologist determined that the Individual had been binge consuming alcohol to the point of impaired judgment. *Id.* at 72–73.

The DOE Psychiatrist recommended that to demonstrate rehabilitation or reformation the Individual should complete one year of outpatient treatment “of moderate intensity.” *Id.* at 74. The DOE Psychiatrist went on to indicate that “moderate intensity” would require participation in AA or a similar-type program at least once every week, “or individual alcohol abuse counseling with

⁶ This course takes six weeks to complete, and attendees meet once per week. Tr. at 17. Attendees complete a workbook that allows them to “go over many, many different concepts.” *Id.*

⁷ Attendees meet once per week and complete “different sections of [a] workbook” at home, so that they can discuss those concepts as a group. Tr. at 19. The program employs cognitive behavioral therapy techniques. *Id.* at 19–20.

⁸ The Individual initially began attending two AA meetings every month, as he works more than one job and did not have time to attend more often. Tr. at 79–80. His attendance increased in time. Ex. G at 31–33. In August 2025, the Individual attended four AA meetings. *Id.* He testified that he intends to continue attending AA meetings after the conclusion of this proceeding. Tr. at 100.

⁹ The Individual submitted a document containing his own interpretation and reflections on the Twelve Steps. Ex. I at 61–63; Tr. at 92–97. In his reflections on Step 1, he denied the premise that he is powerless over alcohol, as he has “always been able to say no” to alcohol. *Id.* at 94. At the hearing, he stated that he uses the Twelve Steps to work “on [his] own problems[.]” *Id.* at 98.

frequency recommended by the counselor.” *Id.* Further, “[a]ny treatment program should include . . . abstinence from alcohol[.]” *Id.*

At the hearing, the Individual indicated that the last time he consumed alcohol was the day of the 2024 incident. Tr. at 91. To that end, the Individual submitted to fourteen PEth tests from August 2024 to September 2025, all of which were negative. Ex. H at 35–60; Ex. K at 1–2. Following the 2024 incident, the Individual and his wife decided that they were going to discontinue drinking alcohol to “avoid problems” and “better [their] lives.” Ex. 8 at 45. The Individual decided to “make changes as soon as [he] was being arrested.”¹⁰ Tr. at 70. Through the EAP classes, he has “learned how . . . to handle things better in [his] life without having to . . . [resort to] substance[s] . . . to make [him] feel better[.]” *Id.* at 76. He testified that he does not believe that he is “an alcoholic,” but he did concede that he was binge drinking at the time of the ADWI.¹¹ *Id.* at 81–82. Since he stopped consuming alcohol, the Individual has noticed that he is happier, he feels less guilty, and he believes that he is “just a better person.” *Id.* at 99–100. Further, while the Individual has previously experienced stretches of time remaining sober from alcohol, remaining sober was not necessarily his “intent.” *Id.* at 88. During those previous periods of abstinence from alcohol, he “just [did not] care to have it[.]” *Id.* He also testified that he has no intention of drinking alcohol ever again and confirmed that he last consumed alcohol in August 2024 and no longer keeps alcohol in his home. *Id.* at 89–91, 101, 103.

During the hearing, the Individual was also asked about the criminal charges that were not related to alcohol consumption. *Id.* at 55–64. The Individual confirmed that several of the charges occurred when he was a minor. *Id.* at 56. Although he did not deny that he was charged with Operator and Chauffeurs Must be Licensed, he indicated that he had not been providing rides to patrons without an appropriate license. *Id.* at 56–57. Rather, he was simply driving without a license. *Id.* at 57. Finally, with regard to the remainder of the traffic-related charges that were not the result of alcohol consumption, he also testified that, in general, he is more conscientious about following traffic and related laws. *Id.* at 61–62.

The EAP counselor who administers the alcohol education program testified that she met the Individual in September 2024. *Id.* at 12–15. The Individual met with the EAP counselor a total of eight times for one-on-one counseling in addition to attending the alcohol education program. *Id.* at 15. They discussed the 2024 alcohol-related incident, the Individual’s family and faith, and what the Individual learned from the alcohol education program. *Id.* at 15–17. She described the Individual as “open and honest.” *Id.* at 16. The Individual’s attendance in the alcohol education program was “excellent” and he was an “engaged[.]” “attentive[.]” and interactive participant. *Id.* at 17. The Individual has not endorsed any cravings for alcohol to the EAP counselor. *Id.* at 22. The Individual’s cousin, who is also an AA attendee, testified that he sees the Individual quite a bit, as they do try to keep in touch. *Id.* at 28–29. He indicated that he was surprised to learn about the 2024 ADWI. *Id.* at 29. He believed that the Individual “had not been drinking” around the time of the 2024 ADWI. *Id.* at 30. The Individual’s cousin testified that the Individual actually

¹⁰ The Individual testified that he was glad to have been arrested, as the potential consequences of his actions could have been much worse for drivers around him. Tr. at 71.

¹¹ The Individual testified that he believes that an alcoholic is someone who needs to consume alcohol on a daily basis or every weekend. Tr. at 82. He also conceded that he had a problem with alcohol when he was younger. *Id.* at 83.

approached him to learn more about AA. *Id.* When asked how often he sees the Individual at AA meetings, the Individual's cousin indicated that the Individual attends the meeting that he attends. *Id.* at 31. The Individual's cousin encouraged him to "do service work" and accordingly, the Individual helps his cousin pass out reading material to prepare for meetings and he occasionally stays late to assist with tidying up after meetings. *Id.* at 33. The Individual's cousin observed that the Individual relates to the stories he hears in AA, and that he introduces himself as an alcoholic. *Id.* at 34. The Individual has not endorsed cravings, and is "working hard on keeping sober[.]" *Id.* The Individual's cousin also testified that since the Individual stopped drinking alcohol, he has been "happier" and "accepting[.]" and he experiences "gratitude" and "humility[.]" *Id.* at 35. Finally, he stated that he discusses the Twelve Steps with the Individual in private conversations, and he described himself as being part of the Individual's larger support system. *Id.* at 36–37.

The Individual's friend of twelve or thirteen years testified that he was present when the Individual was drinking alcohol on the day of the 2024 ADWI incident. *Id.* at 42, 44. He testified that the Individual was not consuming "a lot" of alcohol on that day, as the Individual has medical concerns that cause him some physical discomfort when he consumes alcohol. *Id.* at 44. He did not have any concerns with the Individual driving himself home that day. *Id.* He testified that he has never had any concerns with the Individual's alcohol consumption. *Id.* at 45. Since the ADWI, he has noticed changes in the Individual. *Id.* Foremost, the Individual has stopped consuming alcohol and he believed that the August 2024 ADWI incident was the last time the Individual consumed alcohol. *Id.* at 46–47. Finally, he feels that he is someone the Individual can call if he is "struggling with wanting to drink[.]" *Id.* at 50.

The DOE Psychiatrist testified that an AUD diagnosis indicates "a problematic pattern of alcohol use leading to clinically significant impairment." *Id.* at 112. He observed that any treatment "is always helpful in raising the odds that [the Individual is] going to achieve recovery[.]" even though it is "not necessary." *Id.* at 116. The DOE Psychiatrist also stated that twelve months of sobriety is "the gold standard" of the recommendations that can be made. *Id.* at 117. He stated that, as he has no reason to doubt the Individual's abstinence from alcohol since August 2024, the Individual has fulfilled "the gold standard" requirement. *Id.* at 118. He also indicated that the Individual has learned that he does not "want to resemble the individuals in AA" and that "he seems to be very honest." *Id.* at 119–20. He stated that the Individual has admitted to the problems that he has suffered due to alcohol consumption, and, although he has not admitted that he is powerless over alcohol, the Individual goes to AA meetings and "seems to engage with the process[.]" *Id.* at 124. Further, the Individual's eight meetings with the EAP counselor "was in the range of what [the DOE Psychiatrist] recommended." *Id.* at 125. Ultimately, the DOE Psychiatrist felt that the Individual had met the recommendations that he made in the Report. *Id.* at 126. The DOE Psychiatrist opined that the Individual has "learned enough to deal with a desire to use alcohol again in the future[.]" *Id.* The DOE Psychiatrist found adequate evidence of rehabilitation and that his prognosis is good. *Id.* at 128.

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.

Pursuant to 10 C.F.R. § 710.7(c), I am tasked with considering, among other things, “the absence or presence of rehabilitation or reformation and other pertinent behavioral changes[,]” as well as “the likelihood of continuation or recurrence” of the conduct in question. The Individual acknowledges that he was binge consuming alcohol around the general time period of the August 2024 incident. He also understands the difficulties that alcohol consumption has wrought upon his life. To that end, the Individual engages in behaviors that strongly suggest that he is aware that his consumption was maladaptive. The Individual attends AA meetings and he stopped consuming alcohol completely, as evidenced by over one year of negative PEth tests. He attended his employer's EAP alcohol education course and the course that provides alcohol cessation support. Further, he attended eight one-on-one counseling sessions with the EAP counselor who facilitates the alcohol education course. These actions are congruent with someone who understands that his alcohol use had become maladaptive. Additionally, the Individual and those who testified were quite adamant that the Individual has no current intention of ever consuming alcohol again, and testimony provided by the EAP counselor indicates that the Individual has learned from his past experiences with alcohol. While he is not a disciple of the Twelve Steps and has not engaged a sponsor, he has shown me that he engages with the AA material. Finally, as the DOE Psychiatrist determined that the Individual had shown adequate evidence of rehabilitation and that the Individual's prognosis is good, I am convinced that there is a low likelihood that the Individual will engage in any further maladaptive alcohol consumption. I find that the Individual has mitigated the stated concerns pursuant to mitigating factor (b).

For the aforementioned reasons, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline G.

Guideline J

The Adjudicative Guidelines provide that conditions that can mitigate security concerns under Guideline J include:

- (a) So much time has elapsed since the criminal behavior happened, or it happened under such unusual circumstances, that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (b) The individual was pressured or coerced into committing the act and those pressures are no longer present in the person's life;
- (c) No reliable evidence to support that the individual committed the offense; and
- (d) There is evidence of successful rehabilitation; including, but not limited to, the passage of time without recurrence of criminal activity, restitution, compliance with the terms of parole or probation, job training or higher education, good employment record, or constructive community involvement.

Adjudicative Guidelines at ¶ 32.

With regard to the Individual's non-alcohol related criminal conduct that occurred prior to late 2005 – namely, his conduct that resulted in charges for possession of marijuana, possession of deadly weapons, battery, and disorderly conduct – the Individual was a minor at the time of these offenses, and there is no evidence he has engaged in similar conduct during the ensuing twenty years. Pursuant to 10 C.F.R. § 710.7(c), I shall consider “the age and maturity of the individual at the time of the conduct[.]” As these criminal charges took place decades ago, so much time has elapsed since the criminal behavior that it is unlikely to recur and does not cast doubt on the Individual's reliability, trustworthiness, or good judgment. These criminal concerns have been mitigated under mitigating factor (a).

Since 2006, the majority of the criminal charges with which the Individual has been charged are traffic related. Under 10 C.F.R. § 710.7(c), I am also tasked with considering “[t]he nature, extent, and seriousness of the conduct[.]” These traffic-related incidents are minor violations, and further, as I indicated above, the Individual testified that he is, as whole, more conscientious about following traffic laws. Because I find the Individual to be a credible witness, I am willing to accept this testimony. His assertion is also generally confirmed by the record, as the last incident that was not alcohol-related took place in 2021, approximately four years prior to the hearing. Regarding the alleged criminal conduct that is not alcohol related, and in consideration of the relatively minor security concerns presented by the traffic-related offenses, I conclude that the Individual has mitigated the stated concerns pursuant to mitigating factor (a).

Regarding the alcohol-related criminal charges, these incidents were inextricably intertwined with his problematic alcohol consumption. Under 10 C.F.R. § 710.7(c), I am required to consider, among other things, the “presence of rehabilitation or reformation and other pertinent behavioral changes,” “the likelihood of continuation or recurrence,” and “other relevant and material factors.”

Considering that I have found that the Individual has resolved his alcohol-related issues that raised security concerns under Guideline G, I find that it is unlikely that his alcohol-related criminal conduct will recur in the future. While it would have been ideal for the Individual to learn from the 2006 DWI experience, so as not to repeat the same mistake, the Individual has shown a considerable amount of growth since 2006. As he indicated, he failed to complete the number of court-ordered AA meetings because he was young and immature. After the 2024 ADWI, the Individual has behaved in a manner consistent with someone who understands the gravity of the matter and feels remorse. The 2024 ADWI charges were dismissed, and accordingly, the Individual was not required to attend AA or complete any courses in connection with probation. Regardless, the Individual took action to mitigate the Guideline G concerns and has shown evidence of rehabilitation. I find that the Individual has mitigated the stated concerns related to his alcohol consumption pursuant to mitigating factor (d). For the aforementioned reasons, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline J.

VI. Conclusion

For the reasons set forth above, I conclude that the LSO properly invoked Guidelines G and J 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 brought forth sufficient evidence to resolve the Guidelines G and J concerns set forth in the SSC. Accordingly, 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. Therefore, I find that the Individual's access authorization should be restored. This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

Noorassa A. Rahimzadeh
Administrative Judge
Office of Hearings and Appeals