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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: June 24, 2025 )  
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Case No.: PSH-25-0156

Issued: December 11, 2025

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**Administrative Judge Decision**

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Noorassa A. Rahimzadeh, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXX (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."<sup>1</sup> 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**

As part of the process to apply for an access authorization, the Individual signed and submitted a Questionnaire for National Security Positions (QNSP) in 2020. Exhibit (Ex.) at 13; Ex. 15.<sup>2</sup> The Individual disclosed in his 2020 QNSP that he was charged with Driving While Intoxicated (DWI) in October 2001 and January 2002. Ex. 13 at 124; Ex. 15 at 221–22. The Individual paid fines in connection with the DWI charges. Ex. 13 at 124–25; Ex. 15 at 221–23. He also disclosed an August 2016 charge of Assault with a Deadly Weapon, which he indicated was ultimately dismissed. Ex. 13 at 125; Ex. 15 at 223–24.

The Individual underwent an Enhanced Subject Interview (ESI), conducted by an investigator, in January 2021. Ex. 15 at 239. During the ESI, the correct date of the first DWI, November 2000, was confirmed with the Individual. *Id.* at 241. The Individual explained that prior to the charge, he was consuming beer with a friend in a car. *Id.* On that occasion, he refused to submit to a breath

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<sup>1</sup> 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.

<sup>2</sup> 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.

test after he was stopped by a law enforcement officer. *Id.* Regarding the January 2002 incident, the Individual left a party to buy more alcohol and was stopped by a law enforcement officer on his way back to the party. *Id.* He submitted to a breath test, which he “failed.” *Id.* Regarding the 2016 Assault with a Deadly Weapon charge, the Individual indicated that a neighbor attempted to park his truck by the curb in front of the Individual’s home. *Id.* at 241. The Individual asked the driver not to park in that chosen location, and when they began arguing over the matter, the driver of the truck blocked the Individual in his driveway and “pulled out a gun and started waving it around.” *Id.* The Individual instructed his wife to call the police, as the Individual grabbed a baseball bat from his garage. *Id.* Although the truck driver left before law enforcement officers appeared on the scene, both parties were interviewed by the police. *Id.* During the ESI, the Individual “volunteered that he was charged for possession of marijuana” in June 1997. *Id.* at 242. He was going to a concert with friends and was issued a citation after their car was stopped. *Id.* Upon completion of the background investigation in 2021, the Individual received his access authorization.

In late October 2024, the Individual properly reported to DOE that he was charged with DWI and Failure to Obey Traffic Control Device. Ex. 8 at 34; Ex. 12 at 106. In the report, the Individual explained that his family member had called him to inform him of an emergency, and he was pulled over for “driving in the wrong lane” while on his way to his family member. Ex. 8 at 34. The police report from the incident indicates that the Individual was “driving on the wrong side of the parking lot,” which resulted in the stop. *Id.* at 36. The report goes on to state that officers noticed a “strong odor of alcoholic beverages coming from the vehicle,” and the Individual also had “watery eyes” and slurred speech. *Id.* The Individual told the officer that he had consumed “two do[u]ble shots about three hours” prior. *Id.* The Individual was asked to complete field sobriety tests, which he failed, and he was accordingly arrested. *Id.* The Individual agreed to have his breath tested, and his Blood Alcohol Content (BAC) registered at .10 and .12. *Id.* at 35–36. The same month, the Individual’s employer’s Occupational Medicine (OM) placed the Individual in the Fitness for Duty (FFD) program. Ex. 7 at 31.

The Local Security Office (LSO) subsequently asked the Individual to complete a Letter of Interrogatory (LOI), which the Individual completed and submitted in December 2024. Ex. 9. The Individual answered questions pertaining to the October 2024 incident, as well as his alcohol consumption. *Id.*

As questions still remained, the LSO asked the Individual to see the DOE Psychiatrist for a psychiatric evaluation in January 2025. Ex. 10. As part of the evaluation, the Individual also submitted to a phosphatidylethanol (PEth) test, the result of which was negative.<sup>3</sup> *Id.* at 62. The DOE Psychiatrist issued a report (the Report) of his findings in February 2025. *Id.* In the Report, the DOE Psychiatrist concluded that, pursuant to the *Diagnostic and Statistical Manual of Mental Disorders–Fifth Edition*, the Individual suffers from Alcohol Use Disorder (AUD), Mild, In Early Remission, without adequate evidence of rehabilitation or reformation. *Id.* at 64. The DOE Psychiatrist also concluded that the Individual “is a binge consumer of alcohol to the point of impaired judgment.” *Id.*

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<sup>3</sup> “PEth can only be made when consumed ethyl alcohol reacts with a compound in the Red Blood Cell (RBC) membrane.” Ex. 10 at 62. Further, it can be “detected in the blood for about 28 days after alcohol consumption has ceased.” *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 one-one-one counselor, his former neighbor, his current neighbor, his former supervisor, and a facilitator of his treatment group. *See* Transcript of Hearing, OHA Case No. PSH-25-0156 (hereinafter cited as "Tr.") The Individual also submitted nine exhibits, marked Exhibits A through I. The DOE Counsel submitted fifteen exhibits marked as Exhibits 1 through 15 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," "habitual or binge consumption of alcohol to the point of impaired judgment[.]" and "diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder[.]" *Id.* at ¶ 22(a), (c)–(d). Under Guideline G, the LSO alleged that:

1. The DOE Psychiatrist diagnosed the Individual with AUD, Mild, in Early Remission, without adequate evidence of rehabilitation or reformation, and further, determined that the Individual binge consumes alcohol to the point of impaired judgment. Ex. 1 at 5.
2. The Individual was arrested and charged with DWI and Failure to Obey Traffic Control Devices in October 2024, after the Individual consumed "four to five whiskey drinks prior to his arrest," and his BAC "was measured at 0.10% and 0.12%." *Id.*
3. In January 2002, the Individual was charged and arrested with DWI, and during his January 2021 ESI, the Individual told the investigator that he had "failed his breath test." *Id.*

4. The Individual was charged with “DWI First Offense and Operating Motor Vehicle .10 of 1% Alcohol [sic]” in November 2000, and in his January 2021 ESI, the Individual told the investigator that “he had been drinking beer in a car, and he refused a breath test.” *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 cited allegations 2 through 4 under Guideline G. Ex. 1 at 6. The LSO also alleged that the Individual was arrested and charged with Felony Aggravated Assault (Deadly Weapon) in May 2016 and admitted during his January 2021 ESI that “he was involved in a verbal altercation in front of his home, and he brandished a baseball bat.” *Id.* The LSO further alleged that Individual was charged with Possession of Marijuana in June 1997. *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**

When he testified regarding the 2016 incident, the Individual indicated that he “never expected somebody to pull up in front of [his] house and pull out a gun on [his] wife and son[.]” Tr. at 128.

The record indicates that after the Individual grabbed his bat, he brandished the bat and told the person holding the gun to “get out of here.” Ex. 15 at 241. The individual with the gun departed at that time and the Individual and his family went inside their home. *Id.*; Tr. at 128. He expressed remorse regarding the way he responded, but explained that at the time, he reacted to protect his family. Tr. at 128. Further, as the matter was dismissed, he was not required to take any anger management classes following the incident but opted to do so. *Id.* He decided to take anger management classes to learn how to “deescalate and be a calming influence on the situation rather than react as [he] had in [the 2016 incident].” *Id.*

Regarding his history of alcohol use, the Individual continued to consume alcohol after his early 2000s DWI charges and arrests, but his alcohol consumption prior to 2021 was “minimal.” Ex. 10 at 58. The record indicates that the Individual’s alcohol consumption increased following the passing of two loved ones in June 2021. Ex. 9 at 48; Ex. 10 at 58. However, in the opinion of the DOE Psychiatrist, his “alcohol consumption remained at the level of ‘moderate use as classified by [Centers for Disease Control and Prevention].’” Ex. 10 at 58. His consumption increased again following the passing of a third close relative in June 2023, and he began consuming alcohol to intoxication approximately “one to two times a week.” *Id.* Although the Individual claimed that “intoxication [was] never a goal when [he chose] to drink[,]” the Individual would become intoxicated after consuming five alcoholic beverages. Ex. 9 at 49. However, as he was pouring and mixing his own drinks, he acknowledged the four or five drinks may have been closer to “[seven] standard drinks.”<sup>4</sup> Ex. 10 at 58. He was consuming alcohol on the weekends and explained that “no one ever expressed concern over his use of alcohol[.]” *Id.*

The Individual admitted to consuming four to five drinks prior to the October 2024 incident, and his BAC results on this occasion registered at .10 and .12. Ex. 10 at 59. The Individual entered a guilty plea in connection with the October 2024 charge. Ex. C at 2–3. The Individual was placed in a “first offenders program,” and had his sentence deferred for one year. *Id.* In accordance with the terms of his probation, an interlock device was placed in his car, and he was prohibited from consuming alcohol or “entering into any establishment that serves alcohol.”<sup>5</sup> Ex. 9 at 46. At the time he completed the December 2024 LOI, the Individual reported that he had last consumed alcohol on the day of the October 2024 incident. *Id.* at 48.

As indicated above, he was placed in his employer’s FFD program in October 2024. Ex. B at 15. As part of the FFD program, the Individual was subject to “periodic alcohol testing, including breath alcohol tests” and urine tests, all of which were negative. *Id.* at 15–17. In addition, from November 2024 to October 2025, the Individual submitted to fourteen monthly PEth tests, all of which were negative. Ex. B at 1–14.

The Individual began attending his employer’s EAP alcohol education group meetings in November 2024. Ex. D at 8. The Individual attended six sessions of the alcohol education group

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<sup>4</sup> Per the Centers for Disease Control, a standard drink is 1.5 ounces of liquor or distilled spirits (eighty-proof), five ounces of wine (12% alcohol), or twelve ounces of beer (5% alcohol). *About Standard Drink Sizes*, CENTERS FOR DISEASE CONTROL, <https://www.cdc.gov/alcohol/standard-drink-sizes/index.html> (last accessed December 9, 2025).

<sup>5</sup> The Individual was placed on supervised probation following the October 2024 incident, and in September 2025, his motion to convert his probation to unsupervised probation was granted. Ex. C at 1.

from November 2024 to January 2025 and received a certificate of completion. *Id.*; Ex. A at 1. The Individual also attended EAP courses aimed at supporting alcohol abstinence. Ex. D at 8–9. From April 2025 to October 2025, the Individual attended thirty-five sessions of group therapy aimed at supporting alcohol abstinence. *Id.*; Ex. A at 2–3. Although the Individual received a certificate of completion in the course designed to support abstinence from alcohol, he continues to attend “as an alumnus.” Ex. D at 1; Tr. at 44.

The Individual’s EAP counselor testified that she first met the Individual through an EAP grief support group, before he attended the various EAP alcohol groups. Tr. at 30. In addition to facilitating group meetings, the EAP counselor held several one-on-one meetings with the Individual. *Id.* at 30–31. She explained that abstinence is not a requirement of the alcohol education group, and that participants work through a workbook and discuss matters “popcorn style.” *Id.* at 31–32. Abstinence is a requirement of the abstinence support group, but it is enforced through an honor system. *Id.* at 32. She described the Individual’s participation in these various groups as “excellent.” *Id.* at 32–33. The Individual has been “taking a step back and reflecting and learning about his relationship to alcohol and how it played a role in coping with such significant life circumstances, specifically the death” of his loved ones. *Id.* at 33. She noticed a “significant shift” in the Individual, as his participation in groups became “more open and expressive[.]” *Id.* He is now more able to “manage his emotions.” *Id.* at 34. He realized that consuming alcohol does not allow him to be “fully present[.]” *Id.* at 34–35. The Individual has told her that he has no intention of consuming alcohol. *Id.* at 35. As the Individual has developed “significant insight[.]” she described his prognosis as “good.” *Id.* at 36.

The Individual began receiving individual counseling with a licensed professional clinical counselor in November 2024 for, among other things, his grief.<sup>6</sup> Ex. 9 at 50; Ex. 10 at 59. The Individual’s one-on-one counselor, who has been seeing the Individual since November 2024, testified that the Individual was “suffering from a wide variety of issues, including alcohol.” Tr. at 49–50. He stated that as the Individual was seeking treatment through EAP, he did not “specifically treat him for his alcohol use disorder, since it was likely redundant treatment, within the situation.” *Id.* at 51. As of the date of the hearing, the Individual had attended forty-eight sessions of one-on-one counseling, and his next appointment was scheduled for the afternoon of the hearing. *Id.* at 53. The Individual’s counselor stated that the Individual is “totally involved in the treatment” and “active at trying to resolve issues.” *Id.* at 54.

In December 2024, the Individual began attending self-managed recovery treatment meetings. Ex. 9 at 50. From December 2024 to early November 2025, the Individual attended approximately forty-three such meetings. Ex. E. A facilitator of the self-managed recovery treatment meetings that the Individual attends explained that she first met the Individual “over a year” ago. *Id.* at 66. She explained that this self-managed recovery treatment program “works with people who are looking to abstain or reduce the harm associated with any problematic substance or behavior[.]” and that it is “based on cognitive . . . behavioral therapy and Rational Emotive Behavior Therapy.” Tr. at 67. This program offers an alternative to Alcoholics Anonymous, and it is science based. *Id.* at 68. Groups are discussion based, “so people can offer ideas and options to . . . help people create

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<sup>6</sup> The Individual initially received grief counseling in 2021 through the EAP. Ex. 10 at 60. He participated in “four or five individual counseling sessions.” *Id.* The Individual also began attending, and still attends, a grief support group, which is held on a monthly basis. Tr. at 30, 44–45.

their own path forward[.]” *Id.* at 69–70. She explained that the Individual attends meetings on a weekly basis, and that he is motivated to participate for his own sake, not just to “jump through the hoops” to maintain his employment. *Id.* at 68, 71–74. She has also asked him to facilitate meetings when she has had scheduling conflicts. *Id.* at 74–75. She described the Individual as a “star pupil[.]” *Id.* at 79.

As indicated above, in December 2024 the DOE Psychiatrist diagnosed the Individual with AUD, Mild, in Early Remission and indicated that the Individual “is a binge consumer of alcohol to the point of impaired judgment.”<sup>7</sup> Ex. 10 at 64. The DOE Psychiatrist noted in the recommendation section of the Report that the Individual’s participation in self-managed recovery treatment meetings, individual counseling with his counselor, and EAP education “is certainly adequate for his mild alcohol use disorder” to demonstrate rehabilitation or reformation. *Id.* The DOE Psychiatrist recommended that the Individual continue in individual counseling to address his alcohol and grief issues, and that the Individual “complete one year’s regular (weekly or more frequently) participation in” self-managed recovery treatment meetings. *Id.* at 64–65. “[T]reatment should include abstinence from alcohol” for at least one year to show adequate evidence of rehabilitation or reformation. *Id.*

At the hearing, the Individual’s friend of approximately three years testified that to her knowledge, prior to the October 2024 DWI, the Individual “did drink a little bit, probably a little more than what he should have.” Tr. at 16–18. The Individual told her about his most recent DWI, that it had placed his access authorization in jeopardy, and that “it made him wake up” and realize that “he [could not] do that anymore[.]” *Id.* at 19. She found his predicament surprising, as she believes the Individual is “a clean-cut guy.” *Id.* Previously, she had only seen him under the influence of alcohol approximately four times, during which he displayed “larger than life” behavior that she did not find concerning. *Id.* at 19–20. She testified that the Individual has told her that “he [does not] plan to ever drink again, that he likes himself sober, and [he has] noticed a huge difference in his relationships being sober as well.” *Id.* at 20. She indicated that the Individual serves on their Homeowners Association (HOA) board, where he sets up events for the community, like food truck events. *Id.* at 21.

The Individual acknowledged in his testimony that his “relationship with alcohol is a bit complicated[.]” and that he “was a kid” during his two earlier alcohol incidents. *Id.* at 113. Since those early incidents, the Individual got “married, started raising a family, and put down a lot of behaviors from [his] youth.” *Id.* Since attending group therapy and other treatment, he has identified his “maladaptive use of alcohol[.]” *Id.* He also saw that he was using alcohol to cope during times of stress. *Id.* Accordingly, he has decided not to “have a relationship with alcohol” in the future. *Id.* at 113–14. Because he is participating in group therapy meetings, he has “people to reach out to” in the event he experiences cravings. *Id.* at 114–15. He has also been given “a lot of tools” through the self-managed treatment meetings, tools on which he relies. *Id.* at 115. The

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<sup>7</sup> The DOE Psychiatrist explained in his Report that the Individual “acknowledged that in the year prior to his third [DWI] arrest[,] he was consuming alcohol to the point of intoxication once or twice a week.” Ex. 10 at 64. Further, the Individual had consumed alcohol to intoxication on the day of the October 2024 incident, causing a significant impairment of judgment that resulted in his operation of a motor vehicle. *Id.* The DOE Psychiatrist, therefore, concluded that the Individual concluded that the Individual “is a binge consumer of alcohol to the point of impaired judgment.” *Id.*

Individual explained that he has become “comfortable with being uncomfortable[,]” and that he understands that he cannot remain in control over everything “going on around” him. *Id.* at 132. Instead, he understands that all he can control is the way he reacts to a situation, and he has found the “serenity prayer” helpful. *Id.* He also “disput[es] irrational beliefs” that occur to him, and he engages in a cost/benefit analysis centered around his hierarchy of values. *Id.* at 133–34. He confirmed during the hearing that he has abstained from alcohol for over one year, and that he last consumed alcohol on the date of the October 2024 DWI incident. *Id.* at 117. He explained that two of his loved ones passed away in quick succession in 2021 and that another very close relative passed away in 2023, which was about the time that “alcohol crept into [his] life and was used as a crutch to deal with what was going on[.]” *Id.* at 122. He described feeling “regretful” about this progression of alcohol use. *Id.* Another close family member passed days before the hearing, and the Individual recognized that he now has the tools to cope with the passing, instead of turning to alcohol. *Id.* at 124–25, 132–35. In general, he indicated that his support group consists of his sister, his girlfriend, and his friends and neighbors. *Id.* at 135.

The DOE Psychiatrist testified that after hearing the testimony and examining the exhibits in the record, he believes that the Individual has shown adequate evidence of rehabilitation or reformation. *Id.* at 140. He stated that the Individual “followed [his] recommendation to do the necessary treatment to achieve that goal of at least [twelve] months of abstinence from alcohol with treatment.” *Id.* at 141. He stated that the Individual not only fulfilled his recommendations but exceeded them. *Id.* at 142. He described the Individual’s prognosis as “good.” *Id.* at 144.

## **V. Analysis**

### **Guideline G**

The Adjudicative Guidelines provide that conditions that could mitigate security concerns under Guideline G include:

- (a) So much time has passed, or the behavior was so infrequent, or it happened under such unusual circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or judgment;
- (b) The individual acknowledges his or her pattern of maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations;
- (c) The individual is participating in counseling or a treatment program, has no previous history of treatment and relapse, and is making satisfactory progress in a treatment program; and
- (d) The individual has successfully completed a treatment program along with any required aftercare, and has demonstrated a clear and established pattern of modified consumption or abstinence in accordance with treatment recommendations.

Adjudicative Guidelines at ¶ 23.

As indicated above, the Individual understood the gravity of the October 2024 incident, and what that meant for his life, in addition to jeopardizing his access authorization. Indicative of his good judgment, he immediately began abstaining from alcohol. To prove his ongoing abstinence, he submitted twelve months of negative urine and PEth tests. It appears from the record that the Individual understood the connection alcohol had to his grief, and accordingly, he sought treatment for both his AUD and his grief. He enrolled in the various group meetings offered by his employer's EAP and continues to attend them as an alumnus. The Individual also sought individual counseling with his own therapist, who treats, among other things, his grief. Finally, the Individual began attending self-managed, science-based treatment, which he continues to attend, a facilitator of which described him as a "star pupil." The DOE Psychiatrist indicated in his recommendations that this level of treatment was sufficient, and as the Individual had met the DOE Psychiatrist's recommendations, he concluded that the Individual had shown adequate evidence of rehabilitation or reformation. Both the EAP counselor and the DOE Psychiatrist testified that the Individual's prognosis was "good." Accordingly, the Individual has met the requirements of mitigating factors (b), (c), and (d), and accordingly he has resolved the Guideline G security concerns.

### **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.

Pursuant to 10 C.F.R § 710.7(c), I am required to consider, among other things, "the age and maturity of the individual at the time of the conduct[.]" Regarding the incident that took place in 1997, the Individual was under the age of majority. Moreover, the incident occurred nearly thirty years ago. Accordingly, in consideration of the youth and immaturity of the Individual at the time of the conduct, I find that the passage of time since the offense without recurrence of drug-related misconduct is sufficient to mitigate the minor security concerns presented by this offense. *Id.* at ¶ 32(a).

The Individual's Aggravated Assault charge is also mitigated pursuant to the first mitigating condition. Almost ten years have passed since the alleged offense without recurrence of alleged violent conduct on the part of the Individual. Accordingly, the record indicates that a sufficient amount of time passed without recurrence of this criminal activity. Further, the record indicates that this alleged incident was an isolated occurrence of a violent crime, as the record is bereft of any other violent criminal charge. Thus, I find the first mitigating condition applicable to this allegation. *Id.*

Regarding the alcohol-related criminal matters, they were inextricably tied to the Individual's maladaptive alcohol consumption. As indicated above, the Individual has since sought treatment for his AUD. As the Individual has mitigated the Guideline G allegations pertaining to his AUD, I conclude that he is unlikely to commit alcohol-related offenses in the future. *See* 10 C.F.R. § 710.7(c) (requiring consideration of "the likelihood of continuation or recurrence"). More generally, the Individual has evidenced adequate evidence of rehabilitation. The Individual has been in compliance with the requirements of his probation, as evidenced by his transfer from supervised to unsupervised probation. For the aforementioned reasons, the Individual has mitigated the Guideline J concerns related to his alcohol use pursuant to mitigating factor (d).

The Individual did not indicate that he was pressured or coerced into committing the alleged acts, and he did not present any information indicating that there was no reliable evidence to support that he committed the offense. Mitigating factors (b) and (c) are not applicable.

## **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