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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: August 20, 2025) Case No.: PSH-25-0188
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Issued: March 30, 2026

Administrative Judge Decision

James P. Thompson III, 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 should not be granted access authorization.

I. BACKGROUND

The Individual is employed by a DOE contractor (Contractor B) in a position that requires a security clearance. In May 2025, the Individual submitted a Questionnaire for National Security Positions (QNSP) for his security clearance application, where he stated that he had worked for a different DOE contractor (Contractor A) from May 2021 to March 2025. In that same QNSP, the Individual stated that in the previous seven years he had not used any illegal drugs and that he had never used any illegal drugs while holding a security clearance. However, information available to DOE indicated that the Individual had been involuntarily terminated from his employment with Contractor A in December 2024 due to a positive drug test. Based on the information gathered by the local security office (LSO), the LSO informed the Individual by letter (Notification Letter) that it possessed reliable information that created substantial doubt regarding his eligibility to possess a security clearance. In an attachment to the Notification Letter, entitled Summary of Security Concerns (SSC), the LSO explained that the derogatory information raised security concerns under Guidelines E and H of the Adjudicative Guidelines.

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.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. The Director of the Office of Hearings and Appeals appointed me as the Administrative Judge in this matter, and I subsequently conducted an administrative review hearing. At the hearing, the Individual provided his own testimony and the testimony of his former supervisors. The LSO did not present any witnesses. The Individual submitted one exhibit, labeled Exhibit A.² The LSO submitted nine exhibits, marked Exhibits 1 through 9.³

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

As indicated, the LSO cited Guideline E (Personal Conduct) and Guideline H (Drug Involvement and Substance Misuse) of the Adjudicative Guidelines as the bases for concern regarding the Individual's eligibility for a security clearance. Exhibit (Ex.) 1.

Guideline E provides that “[c]onduct involving questionable judgment, lack of candor, dishonesty, or unwillingness to comply with rules and regulations can raise questions about an individual’s reliability, trustworthiness, and ability to protect classified or sensitive information.” Adjudicative Guidelines at ¶ 15. “Of special interest is any failure to cooperate or provide truthful and candid answers during national security investigative or adjudicative processes.” *Id.* Conditions that could raise a security concern include:

...

(a) deliberate omission, concealment, or falsification of relevant facts from any personnel security questionnaire, personal history statement, or similar form used to conduct investigations, determine employment qualifications, award benefits or status, determine national security eligibility or trustworthiness, or award fiduciary responsibilities.

....

Id. at ¶ 16.

The SSC recounts the following information, copied verbatim below:

A. On May 12, 2025, [the Individual] signed a Questionnaire for National Security Positions (QNSP) certifying that he left employment at [DOE site] for a new job

² During the hearing, I indicated that I would hold the record open for one week to allow the Individual to submit the results of drug testing he had undergone while employed by Contractor A, as well as documentation related to his appeal of the positive test. Transcript of Hearing, OHA Case No. PSH-25-0188 (Tr.) at 38. On the date of the deadline, the Individual submitted a number of alcohol urine test results from that period. The alcohol test results are irrelevant to the issues presented in the SSC and outside the scope of the submissions I authorized. They are excluded from the record and will not be addressed further. The Individual also submitted a two-page written statement that he purports to be a statement he provided in response to questions asked of him on January 7, 2025, by an HR representative for Contractor A. The latter is included as an exhibit.

³ References to the LSO's exhibits are to the exhibit number and the Bates number located in the top right corner of each exhibit page.

opportunity and that he was not fired. Despite this certification, a Security Termination Statement (STS) reflects that on December 24, 2024, he was terminated from [Contractor A] at [DOE site], involuntarily, after a positive drug test.

B. On May 12, 2025, [the Individual] signed a QNSP certifying that he had not illegally used any drugs or controlled substances in the last seven years. Despite this certification, an information report (IR) dated December 24, 2024, reflects that on December 16, 2024, he tested positive for Cocaine Metabolite in a random drug screen administered by his employer.

C. On May 12, 2025, [the Individual] signed a QNSP certifying that he had not used a drug or controlled substance while possessing a security clearance. Despite this certification, an IR dated December 24, 2024, reflects that on December 16, 2024, while holding an active [] clearance, he tested positive for Cocaine Metabolite in a random drug screen administered by his employer.

Ex. 1 at 6.

This information justifies the LSO's invocation of Guideline E.

Guideline H provides that “[t]he illegal use of controlled substances . . . can raise questions about an individual's reliability and trustworthiness.” Adjudicative Guidelines at ¶ 24. Conditions that could raise a security concern include “testing positive for an illegal drug” and “any illegal drug use while granted access to classified information or holding a sensitive position.” *Id.* at ¶ 25(b), (f). The SSC cites: “[o]n December 16, 2024, [the Individual] was selected for a random drug screen in which he tested positive for Cocaine Metabolite, while holding an active [] clearance. Ex. 1 at 6.

This information justifies the LSO's invocation of Guideline H.

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 of 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 or her eligibility for an 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.* § 710.26(h). Hence, an individual is afforded the utmost latitude in the presentation of evidence to mitigate the security concerns at issue.

The discussion below reflects my application of these factors to the testimony and exhibits presented by both sides in this case.

IV. FINDINGS OF FACT

Beginning in May 2021, the Individual was employed by Contractor A at a DOE site. Ex. 6 at 36. While the Individual was employed by Contractor A, he held a DOE access authorization. Tr. at 12. As a part of his job, the Individual was subject to random drug tests. *Id.* at 13.

On December 16, 2024, the Individual was selected for a random drug test and that test came back positive for cocaine metabolite. Ex. 4 at 19. On December 24, 2024, the Individual was issued a property restriction, which stated that he was not permitted to be on any property leased or owned by Contractor A. *Id.* at 20. On that same day, a security specialist issued an STS, which stated that the Individual's security clearance was terminated due to a positive drug test. Ex. 5 at 22. The Individual's former supervisor stated that he was informed that the Individual's employment with Contractor A had been terminated in December 2024 as a result of the positive drug test. Tr. at 42–43.

The Individual testified that in December 2024, he was told that he was not permitted on Contractor A's property, but believed he was still employed by Contractor A. Tr. at 16. He said he was not aware of the STS that was issued on December 24, 2024. *Id.* at 28; *see also* Ex. 5 at 22 (showing that the Individual had not signed the STS but that it was “sent for signature”).

The Individual stated that it was a “shock to the system” when he was told that he had tested positive for cocaine because he had never “even thought about taking part in anything like that.” Tr. at 14. Because he was surprised by his test result, the Individual got the “split sample” that was taken during his random drug test tested. *Id.* At the hearing, he did not remember the results of that test. *Id.* When he was told that his test was positive, the Individual was also told that he could go through an appeal process. *Id.* The Individual went through that appeal process and his appeal was denied. *Id.* at 14–16. He testified that he “got confirmation that [he] was being involuntarily terminated” in “the middle of May or end of May.” *Id.* at 17.

On May 12, 2025, the Individual completed a QNSP for a job with Contractor B at another DOE site. Ex. 6 at 58. In that QNSP, the Individual stated that he had been employed with Contractor A from May 2021 to March 2025 and said he had left that position because of a “New Job Opportunity.” *Id.* at 36–37. He also answered “no” when asked if he had illegally used any drugs or controlled substances in the previous seven years. *Id.* at 50. The Individual also marked “no” when asked if he had ever illegally used or illegally been involved with drugs or controlled substances while holding a security clearance. *Id.*

The Individual testified at the hearing that he had never used cocaine or any other illegal drug. Tr. at 20. He also said that he had “no explanation” for his positive drug test. *Id.*; *see also* Ex. A at 1 (stating “I have no clue why I would test positive for cocaine, I have never done cocaine”). When asked why he had not provided information regarding his positive drug test in his QNSP, the Individual acknowledged that “it would have been smart to explain . . . on the documents that it occurred[,]” but did not provide further explanation. Tr. at 32.

V. ANALYSIS

A. Guideline H Considerations

Conditions that can mitigate security concerns based on drug involvement include the following:

- (a) The behavior happened so long ago, was so infrequent, or happened under such circumstances that it is unlikely to recur or does not cast doubt on the individual’s current reliability, trustworthiness, or good judgment;
- (b) The individual acknowledges his or her drug involvement and substance misuse, provides evidence of actions taken to overcome this problem, and has established a pattern of abstinence, including, but not limited to:
 - (1) Disassociation from drug-using associates and contacts;
 - (2) Changing or avoiding the environment where drugs were used; and
 - (3) Providing a signed statement of intent to abstain from all drug involvement and substance misuse, acknowledging that any future involvement or misuse is grounds for revocation of national security eligibility;
- (c) Abuse of prescription drugs was after a severe or prolonged illness during which these drugs were prescribed, and abuse has since ended; and
- (d) Satisfactory completion of a prescribed drug treatment program, including, but not limited to, rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional.

Adjudicative Guidelines at ¶ 26.

The Individual has not resolved the security concerns pursuant to ¶ 26(a). The positive drug test occurred about fourteen months prior to the hearing while he possessed a security clearance. The Individual did not provide any evidence to support his claim that he had never used illegal drugs or that there were any unusual circumstances involved. As the conduct is relatively recent, there is no credible evidence regarding the frequency of the conduct, and there is no evidence that there were extenuating circumstances, the security concerns are not mitigated. *See also* 10 C.F.R. § 710.7(c) (explaining that the decision-making process should consider the “nature, extent, and seriousness of the conduct”).

As to ¶ 26(b), it does not apply to resolve the security concerns because the Individual has not acknowledged any drug use at all, and, further, he has not provided any evidence of abstinence from drug use.

Furthermore, ¶ 26(c) does not apply because it was not alleged that the Individual was abusing prescription drugs.

Finally, the Individual does not contend that he completed a drug treatment program, so ¶ 26(d) does not mitigate the security concern raised under Guideline H.

For the aforementioned reasons, I find that none of the mitigating conditions are applicable and that the Individual has not resolved the security concerns asserted by the LSO under Guideline H.

B. Guideline E Considerations

Conditions that can mitigate security concerns based on personal conduct include the following:

- (a) The individual made prompt, good-faith efforts to correct the omission, concealment, or falsification before being confronted with the facts;
- (b) The refusal or failure to cooperate, omission, or concealment was caused or significantly contributed to by advice of legal counsel or of a person with professional responsibilities for advising or instructing the individual specifically concerning security processes. Upon being made aware of the requirement to cooperate or provide the information, the individual cooperated fully and truthfully;
- (c) The offense is so minor, or so much time has passed, or the behavior is so infrequent, or it happened under such unique circumstances that it is unlikely to recur and does not cast doubt on the individual's reliability, trustworthiness, or good judgment;
- (d) The individual has acknowledged the behavior and obtained counseling to change the behavior or taken other positive steps to alleviate the stressors, circumstances, or factors that contributed to untrustworthy, unreliable, or other inappropriate behavior, and such behavior is unlikely to recur;
- (e) The individual has taken positive steps to reduce or eliminate vulnerability to exploitation, manipulation, or duress;
- (f) The information was unsubstantiated or from a source of questionable reliability; and
- (g) Association with persons involved in criminal activities was unwitting, has ceased, or occurs under circumstances that do not cast doubt upon the individual's reliability, trustworthiness, judgment, or willingness to comply with rules and regulations.

Adjudicative Guidelines at ¶ 17.

I conclude that none of the above mitigating conditions apply to resolve the Guideline E concerns, largely because the evidence supports the allegation that the Individual consumed cocaine in or around December 2024. I address each of the mitigating factors in turn.

First, ¶ 17(a) does not apply because the Individual did not present any evidence that he made prompt, good faith efforts to correct the falsification in his QNSP before being confronted by the LSO with the positive drug test.

Next, ¶ 17(b) is not applicable here because the Individual has not alleged that he relied on the advice of legal counsel or another person with professional responsibilities for advising or instructing the Individual specifically concerning security processes.

I further conclude that ¶ 17(c) does not apply for the following reasons. I cannot say that the offenses here are minor as each of the three concerns describe an omission or falsification of information that made it more difficult for DOE to evaluate legitimate concerns about the Individual's past drug use. Next, each of these offenses occurred within one year of the hearing so I cannot say that so much time has passed or the offenses are infrequent. Finally, I cannot say that the Individual presented any evidence to show that his omissions and falsifications were due to unusual circumstances.

At no point prior to or during the hearing did the Individual acknowledge that he had provided inaccurate information in the QNSP. When asked why he had provided the false information, the Individual implied that at the time he completed the QNSP, he was unaware he had been terminated and he did not believe he had actually been terminated until May 2025. This testimony is contradicted by the STS and the credible testimony of his former supervisor, which both stated that the Individual was terminated in December 2024. It is also contradicted by the Individual's own assertion in the QNSP that his employment with Employer A ended in March 2025. Further, the Individual maintained that he had never used any illegal drug, and, as such, he did not admit to providing false information on the QNSP about his past drug use. Finally, he did not produce any evidence of steps taken to alleviate the concerns about his candor. Therefore, the security concerns are not mitigated pursuant to ¶ 17(d).

Next, I conclude that ¶ 17(f) does not apply. During the hearing, the Individual stated that he believed the results of his December 2024 drug test were incorrect. However, he did not provide any evidence to corroborate this assertion, and, even if he had provided evidence to corroborate that, the falsification of the information about his termination from Contractor A is clearly substantiated. As such, it does not overcome the positive drug test, which is in the record.

Lastly, ¶ 17(e) and (g) do not apply because the behavior outlined in the SSC does not indicate the Individual is particularly vulnerable to exploitation, manipulation, or duress and the allegations do not relate to association with persons involved in criminal activity.

For the aforementioned reasons, I find that none of the mitigating conditions are applicable and that the Individual has not resolved the security concerns asserted by the LSO under Guideline E.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of the DOE that raised security concerns under Guideline E and Guideline H of the Adjudicative Guidelines. After considering all of the relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all of the testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns. Accordingly, I have determined that the Individual should not be granted access authorization.

This Decision may be appealed in accordance with the procedures set forth at 10 C.F.R. § 710.28.

James P. Thompson III
Administrative Judge
Office of Hearings and Appeals