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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: January 13, 2026) Case No.: PSH-26-0044
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Issued: June 17, 2026

Administrative Judge Decision

Erin C. Weinstock, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXX (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 is employed by a DOE contractor in a position that requires him to hold an access authorization. Exhibit (Ex.) 1 at 8.² Between 2011 and 2021, the Individual was cited or arrested related to at least four criminal charges. Ex. 20 at 372. In 2024, the Individual’s ex-girlfriend filed for a protective order against him, saying that she believed he was a threat to her because of his alcohol consumption. Ex. 13 at 88.

On June 20, 2025, the Individual was arrested and charged with Aggravated Driving While Intoxicated (DWI), Assault on an Officer, Reckless Driving, and Resisting, Evading, or Obstructing an Officer. Ex. 11 at 68. As a result of this incident, the Individual completed a Personnel Security Information Reporting Form on June 23, 2025, reporting his arrest and the charges against him. *Id.* Subsequently, the Local Security Office (LSO) asked the Individual to complete a letter of interrogatory (LOI), which the Individual did on July 16, 2025. Ex. 14. Upon

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 References to the Local Security Office’s (LSO) exhibits are to the exhibit number and the PDF page number from the LSO’s exhibit notebook.

receipt of the responses to the LOI, the LSO asked the Individual to undergo a psychological evaluation in September 2025, by a DOE-consultant psychologist (DOE Psychologist), which resulted in a finding that the Individual met sufficient *Diagnostic and Statistical Manual of Mental Disorders – Fifth Edition (DSM-5)* criteria for a diagnosis of Unspecified Alcohol-Related Disorder (UARD), without adequate evidence of rehabilitation or reformation. Ex. 16 at 127. The DOE Psychologist also found that the Individual could be considered “a binge consumer of alcohol to the point of impaired judgment.” *Id.*

The LSO subsequently issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 1 at 8–10. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline G and Guideline J of the Adjudicative Guidelines. *Id.*

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 2. 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 twenty exhibits (Ex. 1–20). The Individual submitted nine exhibits (Ex. A–I). The Individual presented two witnesses and also testified on his own behalf. Hearing Transcript, OHA Case No. PSH-26-0044 (Tr.). The LSO presented one witness, the DOE Psychologist. *Id.*

II. THE SECURITY CONCERNS

Guideline G relates to security risks arising from excessive alcohol consumption. “Excessive 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 a security concern include: “alcohol-related incidents away from work,” “habitual or binge consumption of alcohol to the point of impaired judgement,” and “diagnosis by a duly qualified medical or mental health professional . . . of alcohol use disorder.” *Id.* at ¶ 22(a), (c)–(d). In citing Guideline G, the LSO relied upon the Individual’s June 2025 arrest for Aggravated DWI as well as two alcohol-related criminal charges from 2016 and 2017 and the protective order obtained by his ex-girlfriend in 2024 related to the Individual’s conduct after having engaged in alcohol use. Ex. 1 at 6. The LSO also cited the DOE Psychologist’s diagnosis of UARD and the Individual’s history of binge consumption of alcohol to the point of impaired judgment. *Id.* The aforementioned allegations justify the LSO’s invocation of Guideline G.

Guideline J, under which the LSO raised additional security concerns, provides: “Criminal activity creates doubt about a person’s judgement, reliability, and trustworthiness. By its very nature, it calls into question a person’s ability or willingness to comply with laws, rules, and regulations.” *Id.* at ¶ 30. Conditions that could raise a security concern under Guideline J include: “evidence . . . of criminal conduct, regardless of whether the individual was formally charged, prosecuted, or convicted.” *Id.* at ¶ 31(b). The LSO cited the Individual’s arrest for Aggravated DWI and related offenses, the protective order sought by his ex-girlfriend in 2024, and five other

criminal violations that occurred between 2010 and 2021.³ Ex. 1 at 7. This derogatory information adequately justifies the LSO's invocation of 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).

An 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). An individual is afforded a full opportunity to present evidence supporting their 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.* at § 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

In 2011, the Individual was arrested and charged for a misdemeanor warrant related to an unpaid speeding citation. Ex. 20 at 274. The Individual testified that the speeding ticket had actually been paid but not updated in the court system, and he was released the same day. Tr. at 26.

In 2016, the Individual was charged with negligent use of a firearm while under the influence of alcohol. Ex. 20 at 274. The Individual was at a friend's home, and the friend was shooting a recently purchased firearm. Tr. at 27. The Individual and his friend were drinking beer, and when law enforcement came to check on the noise from the shots they charged the Individual and his friend with negligent use of a firearm while under the influence of alcohol. *Id.* The charges were dropped before they went to court. *Id.*

In 2017, the Individual was cited with open container. Ex. 20 at 274. He was a passenger in a vehicle when the arrest occurred, and he paid a fine to resolve the matter. Tr. at 27.

³ Among those charges is a 2010 charge of "failure to comply with specific requirements." Ex. 1 at 7. There is one reference to this charge in the agency's exhibit notebook. Ex. 20 at 403. There is no indication that the Individual was asked about this charge in his 2017 background investigation or his 2022 reinvestigation. *Id.* at 274, 372 (investigator's notes detailing discussion of the Individual's criminal history in his enhanced subject interview). At the hearing, the Individual testified that he did not recall being arrested at that time and could not find any record of an arrest. Tr. at 26. In light of these facts, I do not consider this allegation to give rise to a security concern under Guideline J.

In 2021, the Individual was issued a criminal summons for unlawful hunting. Ex. 20 at 274. He was out hunting and had parked his car on a road that he later learned was closed. Tr. at 28. He pleaded no contest to the charge and paid a fine. *Id.*

In May 2024, the Individual's ex-girlfriend and mother of his child filed for a protective order against the Individual, saying that she was scared that the Individual would appear at her house while intoxicated and alleging that, after a recent custody hearing, the Individual had called her and harassed her verbally while sounding intoxicated. Ex. 13 at 92. The Individual denied the allegations that the ex-girlfriend put in the request for the protective order, but he and the ex-girlfriend agreed to a stipulated no-contact order in May 2024. Ex. 15 at 104; Ex. 12 at 75–76. There have been no incidents related to the no-contact order in the two years since it was entered. Tr. at 56.

On June 20, 2025, the Individual was arrested and charged with DWI, Assault on an Officer, Reckless Driving, and Resisting, Evading, or Obstructing an Officer. Ex. 11 at 68. Prior to his arrest, the Individual and his sister-in-law consumed approximately one pint of tequila. Tr. at 33. They decided that they wanted more alcohol, and the Individual's sister-in-law drove them to the gas station. *Id.* The Individual drove them back from the gas station, and on the way back to his home, he crashed into another car and his vehicle rolled over several times. Ex. 8 at 42. The Individual does not remember driving home from the gas station or the accident itself. Tr. at 34. When the Individual woke up, he was at the hospital, and a law enforcement officer told him that he had a warrant to draw a blood sample. *Id.* The Individual was taken to jail from the hospital, and he spent the weekend there. *Id.* at 35. He was eventually released on the following conditions: he had to remain in the state, not consume any alcohol, not go to any establishment that sold alcohol, and not have a firearm. *Id.* To resolve the charges, the Individual pled no contest and was placed on probation. Ex. D (state court paperwork showing the disposition of the Individual's criminal charges). The terms of his probation required him to complete a DWI class, attend a victim impact panel, and complete twenty-four hours of community service. Tr. at 37; Ex. A (documentation showing the successful completion of the Individual's probation requirements). The Individual also had an ignition interlock device installed in his car so that he could maintain his driver's license. Tr. at 37–38. The Individual testified that he had a state court hearing scheduled about one month after the hearing in this matter, at which he would ask to be released from supervised probation. *Id.* at 37; Ex. I (notice of hearing on motion to end supervised probation). The Individual testified that he had not consumed any alcohol since the day of his DWI arrest. Tr. at 38.

The Individual enrolled in an intensive outpatient program (IOP) for alcohol treatment in August 2025 at the recommendation of his employer's fitness for duty (FFD) program. Ex. 16 at 124.

The Individual was evaluated by the DOE Psychologist on September 16, 2025. *Id.* As part of his evaluation, the Individual underwent a Phosphatidylethanol (PEth) test⁴ on the same date. *Id.* at 142. The PEth test came back negative. *Id.* During the evaluation, the Individual reported that he

⁴ "PEth levels in excess of 20 ng/mL are considered evidence of moderate to heavy ethanol consumption." Ex. 16 at 142. "[A] PEth level reflects the average amount of alcohol consumed over the previous 28–30 days" *Id.* at 125.

stopped consuming alcohol following his June 2025 arrest. *Id.* at 124. Prior to his June 2025 arrest, the Individual did not consume alcohol on a regular basis, but admitted to consuming between six and twelve drinks on at least three occasions in the three months prior to his June 2025 arrest. *Id.* at 123–24.

After the Individual completed the evaluation, the DOE Psychologist issued a report in which he concluded that the Individual met sufficient criteria for a diagnosis of UARD and determined that the Individual was a binge consumer of alcohol to the point of impaired judgment. *Id.* at 127. In order for the Individual to show rehabilitation from the UARD, the DOE Psychologist stated that the Individual should: (1) complete the IOP that he began in August 2025; (2) engage in aftercare for a period of six months; and (3) maintain abstinence as corroborated by monthly negative PEth test results. *Id.* If the Individual decided not to complete his IOP, the DOE Psychologist said that he could demonstrate rehabilitation by actively participating in Alcoholics Anonymous (AA) or a similar evidence-based treatment program with documentation of that participation for twelve months and PEth tests to show his abstinence from alcohol. *Id.* In order to show reformation, the Individual would need to demonstrate abstinence by completing monthly PEth testing for a period of 18 months. *Id.*

The Individual completed the ninety-hour IOP three days a week from August 8, 2025 to October 30, 2025. Ex. G (letter from IOP to FFD indicating the Individual completed his IOP). The Individual was then enrolled in once-a-month aftercare for six months, which he completed in May 2026. Ex. H (letter from aftercare to FFD indicating the Individual had completed six months of aftercare and was being discharged); Tr. at 44. Before each IOP class, the Individual had to complete a breath alcohol test. Tr. at 40. He did not ever have a positive test. *Id.* The Individual provided negative PEth tests from tests conducted on August 4, 2025; September 8, 2025; October 9, 2025; November 6, 2025; December 8, 2025; January 6, 2026; February 5, 2026; March 5, 2026; April 2, 2026; and May 7, 2026. Ex. E. He also provided the result of one PEth test that was positive at 28 ng/mL from July 1, 2025, approximately a week and a half after his DWI arrest. *Id.* The Individual never had a positive blow when using the interlock device that was placed on his car. Tr. at 38.

The Individual testified that his wife had expressed concern about his alcohol consumption after his DWI arrest and is supportive of his decision not to consume alcohol. *Id.* at 49–51. He has told his friends and other family members why he is not consuming alcohol, and they are all very supportive. *Id.* at 51–52. Being in situations where other people were consuming alcohol and he was not has taught him that he does not need to consume alcohol to have a good time or be social. *Id.* at 52. At the hearing, the Individual testified that he currently has no desire or plan to consume alcohol in the future, but he was not certain that would always be the case. *Id.* at 56–57.

The Individual's current direct supervisor testified that he was aware of the Individual's participation in the IOP and his monthly PEth testing. *Id.* at 21. The supervisor stated that, as far as he was aware, the Individual had taken all of the steps necessary to successfully complete FFD. *Id.* at 24. The supervisor said that the Individual is a reliable employee and valuable team member. *Id.* at 22.

A second supervisor testified that he was aware that the Individual was participating in alcohol-related treatment programs since his DWI arrest in June 2025. *Id.* at 13–14. He testified that he had not been notified of any issues with the Individual’s FFD participation. *Id.* at 16. The second supervisor also said that the Individual had always operated with “honesty and integrity” and worked very hard in his position. *Id.* at 14–15.

The DOE Psychologist testified that it was his opinion that the Individual demonstrated “strong compliance” with the recommendations in his report and had met his recommendations for rehabilitation. *Id.* at 64–65. He also stated that the Individual had a prognosis of “good” on a poor, fair, good, excellent scale. *Id.* at 65. The DOE Psychologist explained that the prognosis was good rather than excellent because the Individual had a historical pattern of not drinking for months at a time and then drinking to excess. *Id.* at 66. He did not provide an updated diagnosis because there is no “remission” modifier available for a UARD diagnosis. *Id.* at 64.

V. ANALYSIS

Guideline G

An individual may be able to mitigate security concerns under Guideline G through the following conditions:

- (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 maladaptive alcohol use, provides evidence of actions taken to overcome this problem, and has demonstrated a clear and established pattern of modified alcohol 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.

The Individual completed his IOP and six months of aftercare as recommended by the DOE Psychologist. Therefore, he has successfully completed a treatment program and the required aftercare. He provided ten months of negative PEth tests to support his claim that he has been abstinent from alcohol since his arrest in June 2025. His testimony about his abstinence from alcohol consumption is also supported by the breath alcohol tests he took as a part of his IOP and

the tests he has taken to drive his car. In combination, these tests establish a clear pattern of abstinence in accordance with the recommendations of the DOE Psychologist. While the Individual was reticent to commit to lifelong abstinence, his demonstrated sobriety in the time since his DWI and the significant treatment that he has undergone indicate that he has taken DOE's concerns about his alcohol use seriously and taken substantial steps to resolve the concerns. Therefore, he has mitigated the security concerns related to his alcohol use pursuant to mitigating factor (d).

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

Guideline J

An individual may be able to mitigate security concerns under Guideline J though the following conditions:

- (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.

As an initial matter, the Individual's non-alcohol-related criminal charges and citations in 2011 and 2021 were for relatively minor offenses that happened relatively long ago and are unlikely to recur. *See* 10 C.F.R. § 710.7(c) ("In resolving these concerns, all DOE officials . . . shall consider: The nature, extent, and seriousness of the conduct"). These matters do not cast doubt on the Individual's reliability, trustworthiness, or good judgment, and, thus, are mitigated pursuant to mitigating factor (a).

The four remaining allegations giving rise to the security concerns – the Individual's June 2025 arrest, the protective order sought by his ex-girlfriend, the open container citation, and the negligent use of a firearm while under the influence of alcohol charge – are all inextricably tied to his alcohol consumption. The Individual has since resolved his problematic alcohol consumption, as I concluded in my analysis of the Guideline G security concerns. Moreover, the Individual has resolved these concerns pursuant to mitigating factor (d). As to the June 2025 arrest, the Individual made a plea agreement and provided documentation showing that he had complied with all of his

probation requirements. As to the 2024 protective order filing, the Individual showed that he and his ex-girlfriend agreed to a stipulated protective order to resolve the issue, and there is no indication that there has been an issue in the two years since he agreed to that order. Considering that the negligent use of a firearm while under the influence of alcohol charge in 2016 and the open container citation in 2017 were also tied to the Individual's alcohol consumption and are unlikely to recur given his current abstinence from alcohol, I find the Individual's evidence of successful rehabilitation related to his most recent alcohol-related incidents sufficient to address those significantly older offenses. Regarding the Individual's efforts to resolve his alcohol misuse and the Individual's positive prognosis from the DOE Psychologist, I find that the Individual is unlikely to commit alcohol-related criminal offenses in the future and consequentially that his compliance with the terms of his probation and the stipulated protective order are sufficient to resolve the security concerns. *See* 10 C.F.R. § 710.7(c) (requiring consideration of, among other things, "pertinent behavioral changes," "the likelihood of continuation or recurrence," and "other relevant and material factors").

Therefore, I find that the Individual has resolved the security concerns asserted by the LSO under Guideline J.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE to raise security concerns under Guideline G and Guideline J of the Adjudicative Guidelines. After considering all the relevant information, 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 in the Summary of Security Concerns. Accordingly, I have determined 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.

Erin C. Weinstock
Administrative Judge
Office of Hearings and Appeals