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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: April 7, 2026) Case No.: PSH-26-0090
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Issued: June 24, 2026

Administrative Judge Decision

Phillip Harmonick, 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

On April 27, 2025, the Individual completed and signed a Questionnaire for National Security Positions (QNSP) as part of seeking access authorization in connection with his employment by a DOE contractor (DOE Contractor). Ex. 11 at 20, 50. Therein, the Individual disclosed that he was previously employed as a law enforcement officer and that, during the course of that employment, he was suspended for ten days without pay for violations of a law enforcement agency's (Agency) policy. *Id.* at 22. He further disclosed that he was a named defendant in civil litigation related to an in-custody death in connection with the incident that led to his discipline. *Id.* at 48. During an interview with an investigator as part of the investigation of his eligibility for access authorization, the Individual additionally disclosed that he was being investigated for policy violations related to potentially mishandling evidence. *Id.* at 57.

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 local security office (LSO) issued the Individual a letter of interrogatory (LOI) concerning the aforementioned information. Ex. 12. In his response to the LOI, the Individual disputed that he had committed the majority of the policy violations the Agency concluded that he had committed. *Id.* at 9–10. He further indicated that he had “no problems with following rules or regulations in any past or current employment” and that, other than his ten-day suspension, “[n]o other corrective actions, training or disciplinary measures [were] implemented” by the Agency. *Id.* at 10.

The LSO issued the Individual a Notification Letter advising him that it possessed reliable information that created substantial doubt regarding his eligibility for access authorization. Ex. 2 at 1–2. In a Summary of Security Concerns (SSC) attached to the letter, the LSO explained that the derogatory information raised security concerns under Guideline E of the Adjudicative Guidelines. *Id.* at 4–7.

The Individual exercised his right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 6. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge, and I conducted an administrative hearing in May 2026. The LSO submitted fourteen exhibits² (Ex. 1–14) and the Individual submitted twenty-seven exhibits³ (Ex. A–AA).⁴ The Individual testified on his own behalf and offered the testimony of a lieutenant with the Agency (Lieutenant) and a supervisor employed by the DOE Contractor.⁵ *Tr.* at 4, 20, 58, 88. The LSO did not call any witnesses to testify.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline E (Personal Conduct) of the Adjudicative Guidelines as the basis for its substantial doubt regarding the Individual’s eligibility for access authorization. Ex. 2 at 4–7. “Conduct 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. The SSC cited that the Individual had been disciplined by the Agency for numerous policy violations in connection with the death in custody of an individual, that the Individual was a defendant in a civil action related to the death in custody, the Individual’s denial that he had committed the majority of the policy violations the Agency concluded that he had committed, the Individual’s admission to having discarded evidence and the subsequent investigation, and the Individual’s statement in response to the LOI that he had “no problems with following rules or regulations” in connection

² Ex. 14 is a video. Citations to Ex. 14 will reference the second, minutes, and, where applicable, hours, at which the cited material appears in the video.

³ The Individual’s exhibits were provided in numerous submissions, some of which duplicated earlier submissions. In citing to the Individual’s exhibits, I will refer to the pages in the order in which they appear in the Individual’s May 21, 2026, submission of Ex. A–V in one PDF and subsequent submission of Ex. W–AA in another PDF.

⁴ Each party lodged objections to the other’s exhibits, all of which were overruled. *See Tr.* at 9–12 (reflecting the objections and my rulings).

⁵ The supervisor is not in the Individual’s chain of command. *Tr.* at 65.

with his employment.⁶ Ex. 2 at 4–7. The LSO’s allegations that the Individual provided false information in response to the LOI and engaged in conduct that “supports a whole-person assessment of questionable judgment, untrustworthiness, unreliability, lack of candor, unwillingness to comply with rules and regulations” justifies the LSO’s invocation of Guideline E. Adjudicative Guidelines at ¶ 16(a), (d)(2)–(3).

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 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 his or her 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

A. Death of Detainee in the Individual’s Custody

The Individual began working for the Agency in 2021 when he was twenty-three years of age. Ex. 11 at 15, 21. After completing training, the Individual began working independently as a law enforcement officer in approximately February 2022. Tr. at 91–92, 144–45.

On February 4, 2023, the Individual transported a suspect to a hospital. Ex. 11 at 56. Other law enforcement officers employed by the Agency were present at the hospital in connection with a call by the hospital regarding a patient (Jane Doe) who had been discharged but refused to leave. *Id.*; *see also* Ex. 13 at 6–7 (complaint filed on behalf of the estate of Jane Doe against numerous

⁶ The LSO made a number of other allegations concerning the hypothetical financial consequences of the civil litigation to which the Individual was a defendant, the Individual’s personal definition of various terms, such as “reliability” and “honesty,” and the Individual’s belief that his alleged conduct did not impact his suitability for access authorization. Ex. 2 at 6–7. I cannot ascertain how these allegations specifically relate to the conditions that may present a security concern under Guideline E, and the LSO did not provide information concerning the specific conditions that it believed the aforementioned conduct implicated. Accordingly, I find that these allegations by the LSO did not present security concerns under Guideline E and do not consider them further herein.

parties, including the Individual); Tr. at 93; Ex. W at 6 (alleging that Jane Doe had assaulted hospital staff). The officers attempted to place Jane Doe in a transport wagon to convey her to jail; however, Jane Doe, who suffered from numerous medical conditions and whose mobility was limited, passively resisted the officers. Ex. 11 at 56; Ex. 12 at 9; Ex. 13 at 4, 15; Tr. at 94. The officers decided not to place Jane Doe in the transport wagon and instead placed her in the back seat of the Individual's police vehicle. Ex. 11 at 56; Ex. 14 at 54:20–55:08; *see also* Ex. W at 8 (indicating that the officer responsible for the transport wagon feared that Jane Doe “was not ‘rigid’ enough to sit upright,” that she would be unable to breathe if she fell over, and that such an eventuality would be “on [him] and [he would] not [be] willing to take that risk”); Tr. at 30–31, 43 (Lieutenant opining that the Individual was “set up for failure” when he was assigned to transport Jane Doe due to the low height of his vehicle after “things ha[d] already evolved into the . . . mess they were” and that the Individual was “just doing what he was told”).

Once in the Individual's police vehicle, Jane Doe urinated. Ex. 11 at 56. Due to Jane Doe's urination, the Individual did not place her in a seatbelt. Ex. 12 at 9; Ex. 14 at 55:06–08 (officer asking “wanna lean her up and seatbelt her?” in police body camera footage of Jane Doe's arrest and transportation); Ex. 14 at 1:00:45–1:00:52 (officer, presumably the Individual, saying to Jane Doe “you peed in my car? No, I ain't doin', I'm sorry, I ain't doin' it” and closing the door without placing Jane Doe in a seatbelt); *see also* Tr. at 37–38 (Lieutenant testifying that the Individual had not complied with Agency policy when he failed to ensure that Jane Doe wore a seatbelt but that “it was never an enforced policy until after that incident”). The Individual perceived that Jane Doe had intentionally urinated in his vehicle in retaliation for being taken to jail. Tr. at 96–97.

The Individual subsequently began transporting Jane Doe to jail. Ex. 12 at 9. Jane Doe traveled in a reclined position and repeatedly asked the Individual to pull over the vehicle to help her to sit up and complained of being unable to breathe, to which the Individual responded that she could sit up herself and that she should “grow up.” Ex. 14 at 1:01:47–1:04:00. Within a few minutes, Jane Doe's exclamations from the backseat became incomprehensible. *Id.* at 1:04:36–1:05:00 (Individual asking Jane Doe “how you doing back there,” Jane Doe responding incomprehensibly, and the Individual asking Jane Doe “why did you pee in my car?” as Jane Doe continues to make indecipherable sounds). Several minutes later, Jane Doe became quiet, prompting the Individual to ask “you good?” and “hey, you okay?” to which he received no coherent response. *Id.* at 1:06:25–1:07:00. About a minute later, the Individual again asked “hey, you good?” “you need help?” and “hey, wake up. You there?” to which he received no response at all. *Id.* at 1:07:59–1:08:51 In his hearing testimony, the Individual claimed that he had asked these questions of Jane Doe as “a comforting thing” for Jane Doe and that he was unsure at the time whether she was asleep or ignoring him. Tr. at 142. As indicated below, I find that the Individual recognized that Jane Doe was potentially experiencing a medical incident at this point and do not credit his claim to have been seeking to comfort her. *Infra* note 7.

En route, the Individual observed a vehicle commit a traffic infraction. Ex. 11 at 56 (indicating to an investigator that he observed the vehicle “swerving over lanes of traffic”); Tr. at 97. The Individual pulled over the vehicle, placed the driver in handcuffs, and waited for another officer to arrive to complete the arrest. Ex. 11 at 56–57; Tr. at 97–98. Upon returning to his own vehicle less than a minute later, the Individual perceived that Jane Doe was unconscious and performed sternum rubs to “try[] to get her to breathe.” Ex. 11 at 57; Ex. 14 at 1:12:55–1:15:28; Tr. at 143.

The Individual quickly determined that the situation was a medical emergency and requested an ambulance. Ex. 11 at 56; Ex. 12 at 9; Ex. 14 at 1:12:55–1:15:28. An ambulance transported Jane Doe back to the hospital from which the Individual had retrieved her, where she died from a stroke. Ex. 11 at 57; Ex. 13 at 15.

The Individual was placed on administrative leave the day following the incident. Ex. 11 at 63. Following an investigation, the Individual was determined to have committed misconduct and to have violated seven provisions of the Agency’s code of conduct:

- Unbecoming Conduct (Class A Violation)
- Neglect of Duty (Class A Violation)
- Unsatisfactory Performance (Class B Violation)
- Treatment of Prisoners (Class B Violation)
- Unconscious Persons Procedure (Class B Violation)
- Courtesy (Class C Violation)
- Prisoner Transportation (Class C Violation)

Id.; *see also* Tr. at 52 (Lieutenant testifying that Class A violations are the most serious and that “[t]he punishment . . . can be up to and including termination”). As a consequence of the aforementioned violations, the Agency suspended the Individual for ten days without pay in May 2023. Ex. 11 at 63.

The Individual testified that, after the incident with Jane Doe, he “made sure no one fell asleep in the backseat of [his] vehicle” due to concern over not recognizing a loss of consciousness and always “called for an ambulance right away” if a detainee “complained of medical needs.” Tr. at 103. The Individual also received training through which he learned of his responsibility to intervene to protect the rights of citizens, even if a superior officer provided instructions or acted contrary to law, and how to address the needs of populations with medical and substance abuse issues. *Id.* at 105–08; Ex. J at 20; Ex. L at 24.

In 2024, the Individual was competitively selected for a special assignment. Tr. at 25–26, 111. The Individual also received promotions and commensurate salary increases. *Id.* at 110–11; Ex. P at 36; Ex. Q at 38; Ex. R at 40.

B. January 2025 Shell Casing Incident

In January 2025, the Individual responded to a call concerning shell casings found “in the middle of the road” in a residential neighborhood where discharging a firearm would have been unlawful. Tr. at 145; Ex. 11 at 57; *see also* Tr. at 112, 146–47 (testifying that the call was received on New Year’s Day and that this was the only occasion on which he had been called to investigate shell casings in a residential area after a holiday). In what he characterized as an exercise of “poor judgment” during his interview with an investigator, the Individual “picked up the casings and threw them into the woods as [he believed] there were no injuries or fatalities associated with the casings.” Ex. 11 at 57; *see also* Tr. at 28 (Lieutenant testifying that the Individual’s actions were “an accepted practice that honestly should never have been accepted”); Tr. at 134 (Individual testifying that discarding shell casings in these circumstances, while a violation of policy, was

“common practice”). The Agency initiated an investigation into the Individual’s potential mishandling of the shell casings, and a hearing was held in March 2025. Tr. at 117; Ex. 11 at 57. The matter was ongoing in April 2025 when the Individual resigned from his position with the Agency to begin his current employment with the DOE Contractor. Ex. 11 at 20–21, 57; *see also* Tr. at 27 (Lieutenant speculating that the Individual’s conduct would not have been “a fireable offense” had the administrative proceeding concluded); Tr. at 136 (Individual testifying that he did not leave the Agency because of this incident).

C. Information Provided in the QNSP and LOI and Hearing Testimony

The Individual completed and signed the QNSP on April 27, 2025. Ex. 11 at 50. Therein, he disclosed his suspension without pay related to his conduct in transporting Jane Doe. *Id.* at 22. He also disclosed that he was one of the defendants in a civil suit brought by the estate of Jane Doe. *Id.* at 48; *see also* Ex. 13 (reflecting the complaint filed in February 2024). During an interview with an investigator as part of the ensuing background investigation, he volunteered the investigation of his disposal of the shell casings. Ex. 11 at 57.

The LSO subsequently issued the Individual the LOI, to which the Individual responded on December 18, 2025. Ex. 12 at 18. Therein, the Individual opined that he did not commit any of the code of conduct violations for which he was suspended without pay, except for one related to courtesy which the Individual apologized for violating and attributed to Jane Doe’s “lack of cooperation.” *Id.* at 9–10. In response to a question asking whether he “had a problem in [his] past or current employments with following directions, rules[,] and regulations,” the Individual answered in the negative. *Id.* at 3, 10.

The Individual stood by his opinion that he had not violated the code of conduct in his hearing testimony. Tr. at 127 (“I stand by [] what I say”). With regard to Unbecoming Conduct, he testified that it was “a catchall policy” and that, while he and his fellow officers “could have acted better that day,” “it was a misfortunate event that happened.” Tr. at 122. With respect to the finding of Neglect of Duty, he denied that he neglected his duty because he complied with orders and reasonably believed that Jane Doe did not need to see a medical professional because “it is very common for people going to jail to fake that they’re sick or injured to get out of going to jail.” *Id.* at 122–23. Regarding his failure to seatbelt Jane Doe, the Individual testified that he perceived that her urination was a health hazard that constituted an exception to the requirement to seatbelt her for transportation. *Id.* at 125, 129. As to procedures regarding unconscious persons, the Individual asserted that he did not violate the policy and “truly believed that [Jane Doe] was sleeping in the backseat until [he] . . . went to go check on her.” *Id.* at 126.

Although the Individual largely disagreed with the Agency’s bases for disciplining him in connection with the incident involving Jane Doe, he represented that he had “taken accountability” by learning from the events and adhering to policies and procedures in his employment with the DOE Contractor. *Id.* at 134, 140 (testifying that he had “zero issues following all polices to a . . . T” with the DOE Contractor). The supervisor testified that the Individual is “an exemplary employee” who had not had any incidents in which he failed to follow policies or procedures. *Id.* at 66–67. The Individual’s direct supervisor submitted a letter indicating that the Individual had “demonstrated a high level of professionalism and integrity” in his work for the DOE Contractor

and that he was “dependable, accountable, and consistently demonstrate[d] sound judgment.” Ex. C at 6.

V. ANALYSIS

Guideline E

Conditions that could mitigate security concerns under Guideline E include:

- (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.

The Individual was forthcoming in disclosing his discipline by the Agency related to the Jane Doe incident on the QNSP, as well as the investigation related to his disposal of the shell casings to the investigator prior to being confronted with any facts. While the Individual disagreed with the Agency’s conclusions in his response to the LOI, he never denied that he was disciplined or investigated or sought to hide this information from the LSO. Thus, to the extent that the SSC alleges that the Individual was untruthful in his statements in the LOI in which he denied having engaged in rule violations, those concerns are mitigated pursuant to the first mitigating condition. *Id.* at ¶ 17(a).

Turning to the allegations related to rule violations, the Part 710 regulations provide numerous considerations that must be taken into account in applying the mitigating conditions. 10 C.F.R. § 710.7(c). These considerations weigh both in favor of and against the Individual. With respect to the Jane Doe incident, a life was lost, perhaps avoidably, as a result of the events that transpired in February 2023. This weighs in favor of finding that the “nature” and “seriousness” of the conduct was significant, as does the Lieutenant’s testimony that Class A code of conduct violations are the most serious and may result in termination. *See id.* However, it is also notable that the Agency determined that the Individual should be suspended without pay rather than taking more drastic action such as termination or demotion, suggesting that the Individual’s rule violations were less significant than other Class A violations. *See id.* Regarding the shell casing incident, while the Individual perceived his conduct as a minor rule violation, the Lieutenant’s testimony that the conduct was “not a fireable offense” leaves plenty of room for interpretation. Considering that the Agency never completed its adjudication of the incident, I cannot say that the conduct was minor.

The “circumstances surrounding the conduct, to include knowledgeable participation” likewise present considerations both favoring and weighing against the Individual. Regarding Jane Doe, the Individual had reasonable bases to believe that she was falsely claiming a medical emergency and had intentionally urinated in his car – the hospital apparently believed Jane Doe was in good enough health to discharge her and summon law enforcement to remove her from the premises, and Jane Doe had passively resisted arresting officers. However, the bodycam footage in which the Individual repeatedly asked Jane Doe about her well-being as her responsiveness deteriorated and checked on her welfare immediately after the traffic stop suggests that the Individual recognized Jane Doe was experiencing a medical incident well before he summoned emergency services, yet he engaged in a traffic stop anyway.⁷ The shell casing incident, however, is unambiguous; the Individual knew he was violating a policy when he disposed of the shell casings but did it anyway because it was convenient and he knew others had done the same.

Two considerations – “the age and maturity of the [I]ndividual” and “the voluntariness of participation” – go hand in hand with respect to the Jane Doe incident. *Id.* The Individual was a young man and a relatively new officer when he was told to transport Jane Doe. It was understandable for a person in the Individual’s position to do what he was instructed to do and transport Jane Doe. These considerations are not applicable to the Individual’s disposal of the shell casings which occurred voluntarily after he had an additional two years of work experience and was not acting at the direction of a commanding officer.

⁷ The Individual noted that an opinion by a consultant, who was offered as an expert witness in connection with the civil action against the Individual but not recognized as an expert for the purposes of this 10 C.F.R. Part 710 proceeding, stated that “[a]n arrestee falling to sleep during transport would not cause alarm to any law enforcement officer.” Ex. X at 46 (consultant’s opinion). I do not accept that the opinion is applicable to the facts of this case. Whether or not in general a detainee falling asleep in transit would present a concern, it is apparent that the Individual was concerned in this specific case considering that he repeatedly queried Jane Doe as to her well-being despite not having received a response. I do not find the Individual’s claim in his hearing testimony to having sought to provide comfort to Jane Doe with his questions credible, based both on the interrogative manner in which he asked the questions and the Individual’s claim that he believed Jane Doe to be asleep which would have precluded any response. Moreover, considering that the Individual was disciplined by the Agency for violating its Unconscious Person Procedure, it is apparent that the Agency found the Individual’s conduct wrongful even if the consultant did not believe it to be so.

Finally, I address the “frequency and recency of the conduct,” “absence or presence of . . . pertinent behavioral changes,” and “likelihood of continuation or recurrence.” *Id.* While a significant period of time has passed since the Jane Doe incident, the same cannot be said of the Individual’s disposal of the shell casings. Moreover, while the record indicates that the Individual has not committed rule violations with the DOE Contractor, a lengthier period passed between the Jane Doe incident and the shell casing incident than has passed since the shell casing incident, calling into question whether the Individual will once again relax his adherence to rules. Additionally, the Individual’s explanation for the shell casing incident and steadfast refusal to acknowledge rule violations in connection with the Jane Doe incident despite having been disciplined by the Agency calls into question whether the Individual’s personal interpretation of acceptable conduct will lead to rule violations in the future.

Applying all of the foregoing, I find that there is too much doubt to justify the application of the third mitigating condition. *See Egan*, 484 U.S. at 531 (“security determinations should err, if they must, on the side of denials”); 10 C.F.R. § 710.7(a) (“*Any* doubt as to an individual’s access authorization eligibility shall be resolved in favor of the national security”) (emphasis added). The Individual may well have a positive future career in law enforcement should he choose to pursue one – he performed well in his position with the Agency after the Jane Doe incident and by all accounts has acquitted himself well in his current position with the DOE Contractor. However, the Individual’s refusal to acknowledge his rule violations in connection with the Jane Doe incident and his willful rule violation in connection with the shell casing incident simply because he knew others had done the same are not behaviors consistent with what is expected of those who hold access authorization. Considering that the Individual’s rule violations were not so minor as to resolve the security concerns and occurred repeatedly with sufficient time between them such that the passage of time is no guarantee that they will not recur, the only remaining consideration under the third mitigating condition is the unusualness of the circumstances. Taking together all of the previously mentioned considerations, I find that the circumstances were not so unusual as to resolve the security concerns. Accordingly, I find the third mitigating condition inapplicable. Adjudicative Guidelines at ¶ 17(c).

The remaining mitigating conditions are categorically irrelevant to the Individual’s rule violations because the alleged rule violations do not concern untruthfulness or concealment, the Individual did not violate rules on the advice of counsel, the Individual has not pursued counseling related to the alleged misconduct, the LSO did not allege that the Individual’s conduct placed him at special vulnerability to exploitation, manipulation, or duress, the information was not unsubstantiated or from a source of questionable reliability, and the LSO did not allege that the Individual associated with persons engaged in criminal conduct. *Id.* at ¶ 17(a)–(b), (d)–(g).

As the Individual has not established the applicability of any of the mitigating conditions with respect to his rule violations, I find that he 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 DOE to raise security concerns under Guideline E of the Adjudicative Guidelines. After considering all relevant information, favorable and unfavorable, in a comprehensive, common-sense manner, including weighing all testimony and other evidence presented at the hearing, I find that the Individual has not brought forth sufficient evidence to resolve the security concerns asserted by the LSO. 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.

Phillip Harmonick
Administrative Judge
Office of Hearings and Appeals