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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 6, 2018) Case No.: PSH-18-0061
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Issued: October 4, 2018

Administrative Judge Decision

Richard A. Cronin, Jr., Administrative Judge:

This Decision concerns the eligibility of XXXXXXXX (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, Subpart A, entitled "General Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material."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) (Guidelines), I conclude that the Individual's access authorization should not be restored.

I. BACKGROUND

A DOE contractor employs the Individual in a position that requires her to hold a security clearance. The United States Office of Personnel Management (OPM) Federal Investigative Services conducted a background investigation on the Individual which revealed that the Individual believed that a demonic being spoke to her on a frequent basis, that the Individual occasionally perceived the demonic being as controlling her physically, and that she had previously sought psychological treatment in connection with these symptoms. DOE Ex. 5 at 2. Consequently, the local security office (LSO) conducted a Personnel Security Interview (PSI) of the Individual on February 22, 2018. DOE Ex. 8 at i.

Based upon information provided by the Individual in the PSI, the LSO recommended that the Individual undergo a psychological evaluation. DOE Ex. 4 at 1. A DOE-contracted psychologist (DOE Psychologist) conducted an evaluation of the Individual in mid-April 2018 (Psychological Evaluation). DOE Ex. 3 at 1; DOE Ex. 6.

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.

Because neither the PSI nor the Psychological Evaluation resolved the security concerns raised by the Individual's psychological symptoms, the LSO informed the Individual, in a Notification Letter dated July 10, 2018 (Notification Letter), that it possessed reliable information that created substantial doubt regarding her eligibility to hold a security clearance. In an attachment to the Notification Letter, the LSO explained that the derogatory information raised security concerns under "Guideline I, Psychological Conditions." DOE Ex. 1.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. DOE Ex. 2. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in the case, and I subsequently conducted an administrative hearing concerning the matter. At the hearing, the LSO introduced nine (9) numbered exhibits (DOE Ex. 1-9) into the record and presented the testimony of the DOE Psychologist. The Individual introduced four (4) lettered exhibits (Ind. Ex. A-D) into the record and presented the testimony of three (3) witnesses, including herself. I received a transcript of the proceedings (Tr.) on October 2, 2018.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline I (Psychological Conditions) as the basis for denying the Individual a security clearance. DOE Ex. 1.

Certain emotional, mental, and personality conditions can impair judgment, reliability, or trustworthiness. Guideline I at ¶ 27. The Notification Letter asserted that: the DOE Psychologist determined that the Individual met the criteria for Delusional Disorder under the *Diagnostic and Statistical Manual of Mental Disorders, Fifth (DSM-5)*, and that this condition can impair the Individual's judgement, stability, reliability, or trustworthiness. DOE Ex. 1. The DOE Psychologist's determination that the Individual met the diagnostic criteria for Delusional Disorder justifies the LSO's invocation of Guideline I in the Notification Letter. Guideline I at ¶ 28(b).

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), cert. denied, 499 U.S. 905 (1991) (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. 10 C.F.R. § 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 ANALYSIS

The DOE Psychologist determined that the Individual met the diagnostic criteria for Delusional Disorder under the *DSM-5*, primarily based on the Individual's visual and auditory hallucinations of a spiritual nature. DOE Ex. 6 at 5. The Individual began hearing a voice, which she first thought to be Jesus but then came to believe to be an evil spirit, in 2011. DOE Ex. 8 at 9–13. During the PSI, the Individual reported that the evil spirit sometimes caused her to feel physical pain or ordered her to perform tasks. *Id.* at 11–13. The Individual sought treatment with a psychiatrist, but the Individual found the treatment unhelpful and the voice did not subside. DOE Ex. 8 at 8, 10, 17. During the Psychological Evaluation, the Individual reported hearing the demonic voice about once or twice per month, and noted that it tried to disturb her prayers. DOE Ex. 6 at 3. The Individual testified at the hearing that she no longer hears the demonic being, but believes that God places thoughts in her mind during prayer and last did so within a week of the hearing. Tr. at 37–38. The Individual did not dispute the relevant facts set forth in the DOE Psychologist's report, but argued that her experiences were consistent with her religious beliefs as a Catholic and that experiences arising from her religious beliefs could not amount to the Delusional Disorder diagnosed by the DOE Psychologist. DOE Ex. 2; Ind. Ex. A; Tr. at 9.

I have thoroughly considered the record of this proceeding, including the exhibits and the testimony presented at the hearing. In resolving the question of the Individual's eligibility for access authorization, I have been guided by the applicable factors prescribed in 10 C.F.R. § 710.7(c) and the Guidelines. The security concerns at issue center on whether the Individual suffers from a psychological condition that impairs her judgement, stability, reliability, or trustworthiness. After due deliberation, I find that the Individual's DOE security clearance should not be restored. Specifically, I cannot find that restoring the Individual's security clearance would not endanger the common defense and security, or that doing so would be clearly consistent with the national interest. 10 C.F.R. § 710.27(a). The relevant evidence and my specific findings in support of this decision are discussed below.

A. Guideline I Considerations

In evaluating whether or not to restore the Individual's access authorization, I must consider whether the Individual exhibits signs of a psychological condition and the extent to which that psychological condition may impair the Individual's judgement, stability, reliability, or trustworthiness, keeping in mind the Individual's heavy burden to demonstrate that restoring her 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); Guideline I at ¶ 27. This review does not call upon me to pass judgement on the validity of the Individual's personal faith, or to factually evaluate whether the Individual has or has not received spiritual insight.

The Individual testified during the hearing that her condition was somewhat changed since the Psychological Evaluation. According to the Individual, her studies on differentiating godly spiritual

communications from evil ones, as well as guidance that she received from a spiritual director, had helped her to control her fears and manage her life. Tr. at 31–32. The Individual testified that she had not heard voices or perceived that she had seen demonic figures since 2011 or 2012, and that the only spiritual messages she received now were godly messages of peace and serenity placed in her mind by God during prayer. *Id.* at 35–38. According to the Individual, she last received such a message during prayer within a week of the hearing when God instructed her to say a rosary for her son. *Id.* at 38. The Individual testified that she had been prescribed medication in May, which she understood to have been prescribed for depression, but said that she did not intend to pursue psychiatric treatment in the future as she had found spiritually-based healing more effective in the past. *Id.* at 29–32.

The DOE Psychologist, after observing the entirety of the hearing, testified that he believed that the Individual continued to meet the diagnostic criteria for Delusional Disorder, and testified that the Individual may also suffer from Major Depressive Disorder with psychotic features. *Id.* at 45. The DOE Psychologist opined that these conditions could impair the Individual’s judgement, reliability, or trustworthiness. *Id.* at 44. The DOE Psychologist testified that his opinion was based on the Individual’s perception that she received external stimuli directly from God, which the DOE Psychologist testified was clinically distinguishable from the thoughts an ordinary person with strong religious beliefs might report God inspires within them, and that this delusional belief influenced her behavior. *Id.* at 46–47, 51–52, 55–56. The DOE Psychologist acknowledged that the Individual only receiving messages from God during prayer was a different set of external stimuli than she reported to him during the Psychological Evaluation, but opined that this difference did not alter his diagnosis. *Id.* at 47–48. The DOE Psychologist further opined that his prognosis for the Individual was guarded because of the Individual’s resistance to pursuing psychiatric treatment. *Id.* at 50–51.

An individual may mitigate security concerns under Guideline I if she can demonstrate that she is pursuing appropriate care for a treatable condition. Guideline I at ¶ 29(a)–(b). In past cases involving individuals diagnosed with psychological conditions by DOE psychologists based on visual and auditory hallucinations, OHA has deemed the security concerns arising from the psychological conditions mitigated where medication can stop the hallucinations but has denied access authorization where medication does not affect the individuals’ symptoms. *Compare Personnel Security Hearing*, PSH-18-0014 (2018) (granting access authorization to an individual who experienced auditory hallucinations and perceived himself as doing God’s work during manic episodes brought on by Bipolar Disorder because medication could prevent the individual from experiencing manic and psychotic episodes), *with Personnel Security Hearing*, TSO-0922 (2010) (denying access authorization to an individual who perceived that he saw and heard angels despite taking medication prescribed by his psychiatrist, even though a DOE psychologist testified that the individual’s prognosis was good and the individual’s psychologist opined that the individual’s condition did not impair his judgement, stability, reliability, or trustworthiness).² In this case, the Individual continues to experience symptoms that the DOE Psychologist deems evidence of a Delusional Disorder despite prior treatment with medication. Tr. at 31–32, 37–38; *see also* DOE Ex. 6 at 3 (noting the Individual’s discontinuation of psychiatric treatment in 2012).³ Moreover,

² Decisions issued by OHA are available on the OHA website located at <http://www.energy.gov/OHA>.

³ The Individual testified during the hearing that she had been prescribed a low dosage of a medication the DOE Psychologist speculated might have been prescribed as an antipsychotic approximately one (1) month after the

the Individual has manifested a resistance to pursuing psychiatric treatment. Tr. at 31–32. Therefore, I cannot conclude that the Individual has mitigated the security concerns under Guideline I by demonstrating that she is pursuing appropriate care for a treatable condition.

An individual may also mitigate security concerns under Guideline I if the past instability was a temporary condition or there is no indication of a current problem. Guideline I at ¶ 29(d)–(e). The Individual offered the testimony of two (2) co-workers, who both interacted with the Individual on a near daily basis, to show that she had resolved her past instability. One of the co-workers testified that, in 2012, he had seen the Individual experience an episode in the workplace during which she heard a voice of a spiritual nature. Tr. at 12–13. However, the co-worker testified that he had not seen the Individual have such an episode since, and that he perceived the Individual to be a reliable and trustworthy person. *Id.* at 14, 16–17. The second co-worker, who had worked with the Individual for approximately eighteen (18) months, testified that he had never seen the Individual experience an episode in the workplace. *Id.* at 17. However, the Individual does not assert that her perception that she is receiving spiritual communications is a temporary condition. Rather, as the DOE Psychologist noted, the Individual’s symptoms have persisted in varying forms for years. *See* Tr. at 47–48, 54. Therefore, I find this mitigating factor inapplicable.

Lastly, an individual may mitigate security concerns under Guideline I based on the testimony of a qualified mental health professional that the individual’s “condition is under control or in remission, and has a low probability of recurrence or exacerbation.” Guideline I at ¶ 29(c). The DOE Psychologist testified that the Individual’s condition is not under control, and that the Individual is not pursuing appropriate treatment. Tr. at 49–50. Furthermore, the DOE Psychologist opined that he would like to see two (2) years pass without the Individual experiencing symptoms before he would deem the Individual’s condition in remission because of the significant period of time for which the Individual has experienced what the DOE Psychologist characterized as auditory and visual hallucinations. *Id.* at 54–55. The Individual did not offer testimony from her own expert. Accordingly, this mitigating factor is not applicable.

VI. CONCLUSION

In the above analysis, I found that there was sufficient derogatory information in the possession of DOE that raised security concerns under Guideline I of the Adjudicatory 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 set forth in the Notification Letter. Accordingly, I have determined that the

Psychological Evaluation, but had not noticed a reduction in the number of instances in which she perceived herself as receiving communications from God. Tr. at 42–43, 49–50.

Individual's access authorization should not be restored. Either party may seek review of this Decision by an Appeal Panel pursuant to 10 C.F.R. § 710.28.

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Administrative Judge

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