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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: March 20, 2019) Case No.: PSH-19-0015
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Issued: June 21, 2019

Administrative Judge Decision

James P. Thompson III, Administrative Judge:

This Decision concerns the eligibility of XXXXXXXXXXXXXXXX (the Individual) for access authorization under the United States Department of Energy's (DOE) regulations, set forth at 10 C.F.R. Part 710, entitled "Procedures for Determining Eligibility for Access to Classified Matter and 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) (Adjudicative Guidelines), I conclude that the Individual's access authorization should not be restored.

I. BACKGROUND

The Individual is employed by the DOE in a position that requires her to hold a security clearance. On June 12, 2018, the Individual self-reported that she had received in-patient treatment for anxiety and depression. Ex. 20. The local security office (LSO) conducted a personnel security interview (PSI) of the Individual on June 26, 2018. Ex. 11 at 6. A DOE-contracted psychologist (DOE Psychologist) conducted an evaluation of the Individual on October 11, 2018 (Psychological Evaluation). Ex. 12 at 2.

Following the Psychological Evaluation, the DOE Psychologist prepared a report in which he concluded that the Individual's anxiety and depressive disorders were adequately managed and that the Individual did not have a mental condition that impaired her judgement, stability, reliability, or trustworthiness. *Id.* at 12. However, based upon e-mails that the Individual sent to DOE personnel after the date of the Psychological Evaluation expressing her belief that unknown persons were following her and trying to intimidate her outside of work, the DOE Psychologist revised his opinion and determined that the Individual suffered from an unspecified mental condition that impaired her judgement and reliability. *Id.* at 3.

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.

Based on the DOE Psychologist's opinion, the LSO informed the Individual, in a notification letter dated February 28, 2019 (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." Ex. 4.

The Individual exercised her right to request an administrative review hearing pursuant to 10 C.F.R. Part 710. Ex. 5. The Director of the Office of Hearings and Appeals (OHA) appointed me as the Administrative Judge in this matter. At the hearing, the LSO introduced twenty-two (22) numbered exhibits (Ex. 1–22) into the record and presented the testimony of the DOE Psychologist. The Individual introduced nine (9) lettered exhibits (Ex. A–I) into the record and presented the testimony of three (3) witnesses, including her own testimony.

II. THE NOTIFICATION LETTER AND THE ASSOCIATED SECURITY CONCERNS

The LSO cited Guideline I (Psychological Conditions) of the Adjudicative Guidelines 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. Adjudicative Guidelines at ¶ 27. The Notification Letter asserted that: the Individual self-reported in-patient treatment for anxiety and depression; the Individual sent e-mails to DOE personnel expressing her belief that unknown persons were following her; and, the DOE Psychologist determined that the Individual suffers from a condition that impairs her judgement and reliability. DOE Ex. 1. The Individual's in-patient treatment for depression and anxiety, the Individual's assertions regarding intimidation and threats referenced in the e-mails to DOE personnel, and the opinion of the DOE Psychologist that the Individual suffers from a psychological condition that impairs her judgement and reliability justify the LSO's invocation of Guideline I. Adjudicative Guidelines at ¶ 28(a)–(c).

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

The Individual underwent in-patient treatment for symptoms related to anxiety and depression from June 5 – 9, 2018. Ex. 20. The Individual had been receiving treatment from a psychiatric nurse practitioner (the “Psychiatric Nurse”) for several years prior to her in-patient treatment for symptoms related to Major Depressive Disorder, Generalized Anxiety Disorder, and Obsessive-Compulsive Disorder. Ex. H; *see also* Ex. 12 at 3 (noting that DOE records indicate that the Individual has received mental health services from various providers since 1989). According to the Individual, she agreed to hospitalization in June 2018 because her parents and her daughter staged an intervention to encourage the Individual to seek help and “kept pressing it . . . [because the Individual] was obsessed about everything about [her] job.” Ex. 11 at 22–23.

During the June 2018 PSI, the Individual explained that the stress leading to her hospitalization was brought on by a conflict with a co-worker (the “Co-Worker”). *Id.* at 11. According to the Individual, the conflict in question started in 2014 when the Co-Worker came to believe that the Individual was trying to take the Co-Worker’s position. *Id.* The Co-Worker became the Individual’s group leader in 2016, and, although the Co-Worker had expressed that she had “no issues with [the Individual],” the Individual believed that the conflict persisted because she “can kind of tell when someone is angry.” *Id.* at 12. The Individual also indicated that she had “an issue” with a man who attended her church who she believed was related to the Co-Worker. *Id.* at 14–15. The Individual perceived the man as “acting kind of strangely” which caused her to feel “a little bit fearful.” *Id.* at 14. According to the Individual, it was “hard to explain” the behaviors that the man engaged in which caused her to feel fearful but she “got the feeling that he was trying to talk to [her]” *Id.*

In October 2018, the Individual met with the DOE Psychologist for the Psychological Evaluation. The DOE Psychologist concurred with the Individual’s diagnoses of Major Depressive Disorder, Generalized Anxiety Disorder, and Obsessive-Compulsive Disorder. Ex. 12 at 8. The DOE Psychologist found that these conditions did not impair the Individual’s judgment, reliability, or trustworthiness based on her history of managing the conditions with medication, psychotherapy, and social involvement. *Id.* The DOE Psychologist found that the Individual “often answered questions with very detailed and extensively elaborated comments” and that he “had trouble distilling her responses to the question at hand.” *Id.* at 5. The DOE Psychologist also noted that the Individual’s personality likely caused her to be inclined to respond to conflict by “withdraw[ing], work[ing] harder, and blam[ing] herself . . . [which] could generate strong resentments and increased emotional distress.” *Id.* at 8. However, the DOE Psychologist determined that these characteristics did not compromise the Individual’s judgment, reliability, or trustworthiness because he found “no evidence for distorted thinking, clinically significant suspiciousness (i.e., paranoia), delusional thinking, or reality testing problems.” *Id.*

On December 26, 2018, the Individual sent an e-mail message to the security office at the DOE facility at which she was employed alleging that she was being followed outside of work. Ex. 19 at 2. The Individual's e-mail cited numerous instances in which she believed that unknown men, such as individuals who attended the same local gym as the Individual and motorists she encountered on the road, were attempting to monitor or intimidate her. *Id.* The Individual sent an e-mail to a co-worker on January 10, 2019, in which she asserted that incidents in which she believed unknown persons were following her were "happening to [her] more and more" and that she had "suspicions but no proof other than what [she had] been hearing by earshot upstairs in [the DOE] office day to day" Ex. 18 at 1.

The LSO sent the Individual's e-mails to the DOE Psychologist, who issued a revised opinion on January 17, 2019, indicating that the Individual suffered from a mental condition which caused a significant defect in her judgement or reliability. Ex. 12 at 3. The DOE Psychologist stated that the e-mails reflected "a marked decline in [the Individual's] psychiatric functioning from what was apparent in October 2018." *Id.* The DOE Psychologist also opined that the e-mails "reveal significant referential thinking, a serious psychiatric symptom and form of paranoid ideation." *Id.* After the DOE Psychologist issued his opinion, the Individual sent another e-mail to a co-worker complaining of being monitored by unknown persons. Ex. 17.

On February 19, 2019, the Individual met with the Psychiatric Nurse for an emergency evaluation at her daughter's request due to the daughter's concern about the Individual's mental status. Ex. H at 30. During the evaluation, the Individual expressed to the Psychiatric Nurse that the Co-Worker was against her and was sending members of the Co-Worker's family to stalk and harass her. *Id.* The Psychiatric Nurse characterized the Individual's symptoms as consistent with the diagnostic criteria for Delusional Disorder, persecutory type, and recommended in-patient treatment for the Individual. *Id.* at 31–32. The Individual was admitted to a hospital under an emergency commitment later that day. Ex. B at 3.

The hospital to which the Individual was admitted described her symptoms as including paranoia, preoccupation with her job and workplace, and delusional beliefs. *Id.* at 5. The hospital rated the Individual's impulse control, insight, and judgement as poor at the time that she was admitted. *Id.* at 6. At discharge, the attending physician diagnosed the Individual with unspecified schizophrenia spectrum and other psychotic disorder, unspecified anxiety disorder, and unspecified depressive disorder. *Id.* at 9.

During the hearing, the Individual's daughter testified that she had been aware of the Individual's workplace conflict with the Co-Worker for some time, and that she became concerned when she called the Individual's supervisor and learned that the Individual was displaying significant emotional problems at work, such as crying on the floor. Transcript (Tr.) at 21, 23. The Individual's daughter testified that the Individual had agreed to both of her hospitalizations for in-patient mental health treatment, and that the Individual always followed treatment recommendations. *Id.* at 20, 27–28, 46. According to the Individual's daughter, the Individual has gained insight into her condition and is able to focus on things other than her workplace conflict. *Id.* at 37. The Individual's daughter expressed that she perceived the Individual as always following rules, and that she had not seen the Individual act in a delusional manner. *Id.* at 33.

A friend of the Individual testified that she became aware of the Individual's mental health issues when the Individual shared this information in a church group which she and the Individual both attend. *Id.* at 52. According to the Individual's friend, the Individual is calm and reasonable, and she has never seen the Individual act irrationally or angrily. *Id.* at 52, 54.

The Individual testified that her prescription medication had improved her ability to think clearly and that she did not believe that hostile individuals were currently following her. *Id.* at 84–87. However, the Individual adamantly maintained that individuals whose intention was to frighten or intimidate her had previously followed her and that she “just [did not] think [she] could have imagined it.” *Id.* at 121–23. The Individual repeatedly cited an incident in which she said that a man in a parking lot commented on seeing her experience difficulty entering her car due to ice on the door handle, despite this event happening hours earlier in her driveway at home, as confirming her belief that strange men were monitoring her and trying to intimidate her. *Id.* at 78–80, 117.

The Individual testified that, if her clearance was restored and she could return to work, she would maintain a positive attitude and let her dispute with the Co-Worker go. *Id.* at 101–03. The Individual also expressed that she would be “more careful[, and] not explain[] things so much[, because] that's what got [her] in trouble” and that if she became suspicious again that she would “just carefully sit back and look at the situation before I do anything like this.” *Id.* at 100, 102. The Individual also indicated that “unless [she] ha[d] [] very solid proof, [she would not] be sending any more e-mails” to security. *Id.* at 115.

The Individual expressed that she was angry about her clearance being suspended in February 2019, and she did not believe that her judgement was impaired when she was hospitalized. *Id.* at 105–07. The Individual also explained that she did not believe that she had experienced paranoia. *Id.* at 130.

After observing the testimony of all of the other witnesses, the DOE Psychologist testified that he believed that the Individual was properly diagnosed with Delusional Disorder and that the Individual's condition was impairing her judgement and reliability. *Id.* at 144, 150. The DOE Psychologist opined that the Individual's psychological wellbeing declined significantly in the fall of 2018, and that, although the Individual's condition had improved since then, she was not yet stable. *Id.* at 143, 161. In support of this conclusion, the DOE Psychologist observed that the Individual's testimony at the hearing displayed “partial insight” with respect to her Delusional Disorder because she recognized that her interpretation of events seemed odd to others, but remained unsure as to whether her perceptions were accurate. *Id.* at 145–46.

The DOE Psychologist described Delusional Disorder as a chronic condition that can enter remission. *Id.* at 147. The DOE Psychologist opined that the Individual's personal characteristics and strong support system were positive, but that the Individual would need to demonstrate at least three (3) to six (6) months of strong evidence of recovery for him to deem her condition in remission. *Id.* at 152. However, the DOE Psychologist explained that the Individual was not in remission because, as of the date of the hearing, the Individual had only demonstrated improvement of her symptoms within the previous month. *Id.* at 160.

V. ANALYSIS

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 Adjudicative 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 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 (Psychological Conditions)

Guideline I provides that an individual can mitigate security concerns arising from a psychological condition if: (a) the condition is readily controllable with treatment and the individual has demonstrated ongoing and consistent compliance with the treatment plan; (b) the individual has voluntarily entered a counseling or treatment program for a condition that is amenable to treatment, and the individual is currently receiving counseling or treatment with a favorable prognosis by a duly qualified mental health professional; (c) a duly qualified mental health professional provided an opinion that the individual's previous condition is under control or in remission, and has a low probability of recurrence or exacerbation; (d) the past psychological condition was temporary, the situation has been resolved, and the individual no longer shows indications of emotional instability; or (e) there is no indication of a current problem. Adjudicative Guidelines at ¶ 29(a)–(e).

The DOE Psychologist's testimony caused me to conclude that mitigating conditions (a)–(d) are inapplicable in this case. The DOE Psychologist testified that Delusional Disorder is a chronic condition, not a temporary one. Although the Individual's Delusional Disorder may be controllable with treatment, the Individual has not completed an adequate period of treatment without a major psychotic episode for the DOE Psychologist to deem her in remission. The DOE Psychologist further opined that the Individual had not stabilized from her February 2019 psychotic episode, and that her judgement and reliability were impaired.

The Individual's testimony also evidenced a current problem, and indicated that she has not yet satisfied mitigating condition (e) under Guideline I. The Individual's testimony that she believes that strange men surveilled her day-to-day life in the past and that she was not experiencing paranoia, combined with her testimony that she will not disclose if she becomes suspicious again to avoid placing her employment in jeopardy, reflect a current problem with the Individual's psychological condition which may make it difficult to effect timely control because of her stated intention to minimize her symptoms if they reemerge. For these reasons, I find that the Individual has not satisfied any of the mitigating conditions set forth in Guideline I of the Adjudicative Guidelines.

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 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.

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