

an allegation that Applicant stated his intent to use marijuana in the future on his security clearance application, during his clearance interview, and in his response to DoD interrogatories.

During the security clearance process, Applicant reported that he began using medical marijuana in March 2020 as an alternative to opioids and that he did so on the advice of his pain-management doctor. He used marijuana only for medicinal purposes. In his response to the SOR, Applicant stated, “I am willing to work and find an alternative medical solution, but until that medical solution is found, I’m going to continue to use the medical solution that works, as it is legal in my state to do so.” Decision at 2–3, quoting SOR Response. As the Judge noted, “[Applicant] did not respond to the FORM, so additional information is not available.” *Id.* at 3.

Applicant did not violate any state law when he possessed and used marijuana for medicinal purposes. . . . However, marijuana possession is still a federal crime, and inconsistent with holding a security clearance. None of the mitigating conditions are applicable, and Applicant’s illegal drug use is not mitigated. [Decision at 6.]

On appeal, Applicant raises only one issue: “The Government has incorrectly assumed that I have continued my use of medical cannabis.” Appeal Brief at 1. We interpret this statement to mean that Applicant stopped using marijuana at some point after he responded to the SOR, but we find no evidence in the record to support that contention. We also find no error in the Judge’s conclusion that Applicant is barred from holding a security clearance under 50 U.S.C. § 3343(b) for being an unlawful user of a controlled substance.

The Appeal Board does not review cases *de novo* and is prohibited from considering new evidence on appeal. Directive E3.1.29. The Board’s authority to review a case is limited to cases in which the appealing party has alleged the Judge committed harmful error. Because Applicant has not made such an allegation of error, the decision of the Judge denying Applicant a security clearance is sustainable.

Order

The decision is **AFFIRMED**.

Signed: James F. Duffy
James F. Duffy
Administrative Judge
Chairperson, Appeal Board

Signed: James E. Moody
James E. Moody
Administrative Judge
Member, Appeal Board

Signed: Moira Modzelewski
Moira Modzelewski
Administrative Judge
Member, Appeal Board