



for a security clearance. Applicant appealed pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raised the following issues on appeal: whether the Judge's findings were supported by substantial record evidence and whether the Judge's whole person analysis was erroneous, resulting in an adverse decision that was arbitrary, capricious, and contrary to law. Consistent with the following, we affirm.

### **The Judge's Findings of Fact**

Applicant has worked for his current employer since 2014. He has never held a clearance. He has engaged in illegal drug use, to include marijuana, cocaine, LSD, mushrooms, and ecstasy. Applicant started smoking marijuana at age 16, and used it with varying frequency until June 2014. He used cocaine from 2005 until late 2013, LSD and mushrooms on one occasion between 2008 and 2010, and in mid-2010 used ecstasy at least twice. The Judge found that, in his security clearance application (SCA), Applicant disclosed use of hashish, crack, rock, freebase, amphetamines, speed, and crystal meth, though he provided no information about frequency of use or purchase.

Applicant denies that he is addicted to illegal drugs. He states that he has never sold, grown, or manufactured any illegal substance. He states that, in his mid-twenties, he decided to give up drug use. In July 2014 he stopped using illegal drugs, "which was about three months before he applied for his job in the defense industry." Decision at 2. He has apologized for his past actions and promises never to use illegal drugs again.

### **The Judge's Analysis**

The Judge characterized Applicant's drug use as "shocking." *Id.* at 5. She stated that his misconduct constitutes a lapse in judgment, raising questions about his fitness for a security clearance. She stated that his recent uses of marijuana and cocaine call his maturity, character, and judgment into question. In the whole-person analysis, the Judge found that Applicant has been drug-free for only a year and a half, which is not enough time to demonstrate rehabilitation, given the extensive nature of the misconduct.

### **Discussion**

Applicant denies that he ever used hashish, crack, rock, freebase, amphetamines, speed, or crystal meth. He states that, during his meeting with the investigator, he did not admit to having used these drugs.

However, we note that Applicant did admit (with an explanation) to all of the allegations in the SOR, explaining that he had started using marijuana while young, leading to experimentation with other drugs. The SOR allegations included amphetamines, speed, and crystal meth. Moreover, in his SCA, he admitted to having used various *categories* of drugs, such as cocaine, hallucinogens, and stimulants. These categories were accompanied by illustrative examples, apparently generated by the electronic SCA program itself, such as "rock" and "freebase" under the rubric of crack cocaine. It is reasonable to conclude that Applicant's admission for having used "cocaine or crack cocaine" does not necessarily mean that he admitted to having used all possible variants of that drug.

Nevertheless, even if the Judge erred in finding that Applicant had used some of the drugs addressed in this assignment of error, it did not likely affect her overall decision. Even if she erred, it was harmless. The Judge's material findings are supported by substantial evidence or constitute reasonable conclusions that could be drawn from the evidence. *See, e.g.*, ISCR Case No. 12-03420 at 3 (App. Bd. Jul. 25, 2014).

We conclude that the Judge's whole person analysis complies with the requirements of Directive ¶ 6.3, in that she considered the totality of the evidence in reaching her decision. *See, e.g.*, ISCR Case No. 15-00424 at 2-3 (App. Bd. Apr. 20, 2016). The Judge examined the relevant data and articulated a satisfactory explanation for the decision. The decision is sustainable on this record. "The general standard is that a clearance may be granted only when 'clearly consistent with the interests of the national security.'" *Department of the Navy v. Egan*, 484 U.S. 518, 528 (1988). *See also* Directive, Enclosure 2 ¶ 2(b): "Any doubt concerning personnel being considered for access to classified information will be resolved in favor of the national security."

### Order

The Decision is **AFFIRMED**.

Signed: Michael Ra'anan  
Michael Ra'anan  
Administrative Judge  
Chairperson, Appeal Board

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

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