

(Directive). Applicant requested a hearing. On December 13, 2006, after the hearing, Administrative Judge Wilford H. Ross denied Applicant's request for a security clearance. Applicant filed a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant raises the following issues on appeal: whether the Judge erred in concluding that Applicant had not mitigated the security concerns raised under Guideline J;¹ and whether the Judge's adverse security clearance decision is arbitrary, capricious, or contrary to law. Finding no error, we affirm.

The Judge made the following findings of fact: Applicant did not file Federal tax returns for tax years 1999 through 2003 until January 2005. As a consequence, he had to pay \$73, 419.18 in taxes, interest, and penalties. He owes no more back taxes to the Federal government.

Applicant has a history of failing to file tax returns in a timely fashion. His 1994, 1995, and 1996 taxes were not filed until December 1998. The government attached his wages due to unpaid taxes in the 1980's. Applicant was aware of his obligation to file tax returns. He stated that his problems were due to his wife's interior design business. She would get behind in her paperwork, making it difficult to file timely returns. Applicant and his wife have hired a tax professional to assist him in the future. Applicant submitted numerous documents and witnesses, attesting to his high character and to his excellent work performance.

In light of the unchallenged findings, we find no error in the Judge's conclusion that applicant had failed to mitigate the security concerns raised by his failure to file timely Federal tax returns. *See* Directive ¶ E3.1.15 ("The applicant is responsible for presenting witnesses and other evidence to rebut, explain, extenuate, or mitigate facts admitted by the applicant or proven by Department Counsel, and has the ultimate burden of persuasion as to obtaining a favorable clearance decision.") Viewed in light of the record evidence as a whole, we conclude that the Judge has articulated a "rational connection between the facts found" and his ultimate adverse clearance decision. *See Motor Vehicle Mfrs. Ass'n of the United States v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)(quoting *Burlington Truck Lines, Inc. v. United States*, 371 U.S. 156, 168 (1962)). The mitigating evidence cited by Applicant on appeal is not sufficient to compel as a matter of law a favorable decision. Accordingly, we hold that the Judge's decision is not arbitrary, capricious, or contrary to law.

¹The Judge's favorable decision under Guideline F is not at issue in this appeal.

Order

The Judge's decision denying Applicant a security clearance is AFFIRMED.

Signed: Michael Y. Ra'anan
Michael Y. Ra'anan
Administrative Judge
Chairman, Appeal Board

Signed: William S. Fields
William S. Fields
Administrative Judge
Member, Appeal Board

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