

amended)(Directive).¹ Applicant requested a hearing. On September 29, 2006, after the hearing, Administrative Judge Philip S. Howe denied Applicant's request for a security clearance. Applicant submitted a timely appeal pursuant to Directive ¶¶ E3.1.28 and E3.1.30.

Applicant asserts the following issue on appeal: whether the Judge erred in concluding that Applicant had not mitigated the Guidelines E and J security concerns. We affirm the decision of the Judge.

Applicant has not challenged the Judges findings of fact. Therefore we rely on those findings in resolving the issue before us on appeal. *See* ISCR Case No. 03-11765 at 3 (App. Bd. Apr. 11, 2005). The Judge found that in security clearance applications in 1988 and 1996 Applicant made a series of false statements concerning his involvement with drugs—marijuana, cocaine, crack cocaine, and LSD. Applicant finally admitted the extent of his involvement during a security clearance investigation in 2003.² Additionally the Judge found that Applicant was charged with and convicted of operating a vehicle under the influence of alcohol.

In his decision, the Judge acknowledged that Applicant had finally admitted his drug involvement but concluded that Applicant's false statements constituted a "pattern of behavior intended to hide Applicant's lengthy history of drug use . . ." Decision at 6. The Judge went on to state that Applicant's "conduct is serious, voluntary . . . and there is no assurance that it will not occur again in the future," particularly in view of Applicant's [having] promised investigators in 1989 that he would not use illegal drugs again yet having continued to do so. *Id.* Significantly, the Judge stated that he did not believe Applicant's 2003 statement. *See* Directive ¶ E3.1.32.1 ("[T]he Appeal Board shall give deference to the credibility determinations of the Administrative Judge."); ISCR Case No. 02-03186 at 3 (App. Bd. Feb. 16, 2006). Based upon the foregoing, the Judge concluded that Applicant had not met his burden of producing sufficient evidence to mitigate the Government's security concerns.

Examining the decision in light of the record, we conclude that the Judge has articulated a rational connection between his findings and his ultimate unfavorable conclusion. *See, e. g.*, ISCR Case No. 03-00577 at n. 4 (App. Bd. Dec. 11, 2006). Given the Judge's findings, unchallenged on appeal, we conclude that his decision is neither arbitrary, capricious, nor contrary to law. *See* ISCR Case No. 00-0382 at 4-5 (App. Bd. Jun. 19, 2001).

¹The SOR was amended at the hearing on the Government's motion without objection from Applicant.

²The Judge noted an inconsistency in his 2003 statements. Applicant states in his SF 86 that he used crack from 1994 until 1997, but in a subsequent interview he states that the ending date was 1996. Decision at 3.

Order

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

Signed: Jean E. Smallin

Jean E. Smallin
Administrative Judge
Member, 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