

UNITED STATES OF AMERICA
U.S. DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

UNITED STATES COAST GUARD

Complainant

vs.

TERRY ANTHONY BOUDREAU

Respondent

Docket Number CG S&R 02-0488
CG Case No. PA740478

DECISION AND ORDER

Issued by: Archie R. Boggs, Administrative Law Judge

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PRELIMINARY STATEMENT

This proceeding is brought pursuant to the authority contained in 46 USC 7703 and 7704 and 46 Code of Federal Regulations 5.35 and 5.27.

TERRY ANTHONY BOUDREAU was served with a Complaint dated 2 August 2002 which was issued by U.S. Coast Guard Investigating Officer T. H. Brown of the Marine Safety Office Morgan City, LA.

The jurisdictional allegations are that Mr. Boudreaux holds Coast Guard license No. 842505 and merchant mariner's document No. 437 31 3070 and the factual allegations are "Use of or Addiction to the Use of Dangerous Drugs" and "Misconduct."

Under "Use of or Addiction to the Use of Dangerous Drugs" the Coast Guard alleged that on 26 July 2001 the Respondent was "convicted of possession of (a) controlled substance in the Cameron Parish Court, LA."

Under "Misconduct" the Coast Guard alleged that the Respondent on 5 December 2001, "while acting as master on board the M/V Miss Caroline, ON606529, tested positive in a reasonable suspicion alcohol test."

Mr. Boudreaux filed an Answer in which (1) he admitted the jurisdictional allegations and (2) denied the factual allegations as follows: "I have never used or been addicted to drugs. I have never failed a drug test."

The Respondent requested a hearing, which was held at Morgan City on 6 November 2002.

In support of the Complaint the Investigating Officer introduced in evidence the testimony of three witnesses: (1) John Denis Ordonne, operations manager for Abon Callais Offshore, Golden Meadow, LA; (2) Craig M.Hendrix, breatholizer technician, for Lafourche Services, Inc., Golden Meadow; and (3) Terry Anthony Danos, breatholizer technician, Lafourche Services, Inc., Golden Meadow

The factual allegations of "Misconduct" are that the Respondent "on 5 December 2001 while acting as master on board the M/V Miss Caroline, ON606529, tested positive in a reasonable suspicion alcohol test."

Mr. Boudreaux filed an answer in which (1) he admitted the jurisdictional allegations and (2) denied the factual allegations as follows: "I have never used or been addicted to drugs. I have never failed a drug test."

Mr. Boudreaux was specifically told that there were only two possible results of the hearing – (1) if the Complaint should be found proved his license would be revoked, and (2) if the Complaint should be found not proved the matter would be dismissed.

Mr. Boudreaux was fully advised of his right to be represented by professional counsel. He elected to represent himself.

Mr. Boudreaux denied the allegations of the Complaint.

In addition to the testimony of the aforesaid witnesses the Investigating Officer introduced five (5) exhibits.

I.O. Exhibit No. 1 – a copy of the minutes of the 38th Judicial District Court, Cameron Parish, LA which indicates that Mr. Boudreaux was convicted of possession of marijuana on 26 July 2001.

I.O. Exhibit No. 2 – a copy of the minutes of the 38th Judicial District Court, Cameron Parish, LA which indicates that Mr. Boudreaux was convicted for possession of marijuana on 30 October 2001.

I.O. Exhibit No. 3 – a Certificate of Training which was issued to Craig Hendrix showing that he completed a required course for breatholizer technician.

I.O. Exhibit No. 4 – a completed Department of Transportation alcohol testing form which shows that Terry Boudreaux tested 0.151% BAC at 2335 on 5 December 2001; and 0.126 BAC, at 2354 on 5 December 2001.

I.O. Exhibit No. 5 – a copy of a Certificate of Training which was issued to Terry A. Danos on August 24, 2001.

Mr. Boudreaux testified under oath in his own defense. He did not deny that he failed the breatholizer test and he admitted that he was “caught with marijuana.”

ULTIMATE FINDINGS

1. Terry A. Boudreaux being the holder of the captioned license No. 842505 and merchant mariner's document No. 437 31 3070 was convicted of possession of marijuana on 26 July 2001 in the 38th Judicial Court, Cameron Parish, LA.
2. On 30 October 2001, in the same Court, he was again convicted for possession of marijuana.

CONCLUSIONS

The Respondent and the subject matter of this hearing are within the jurisdiction vested in the U.S. Coast Guard under the provisions of 46 USC section 7704.

The jurisdictional and factual allegations are proved.

OPINION

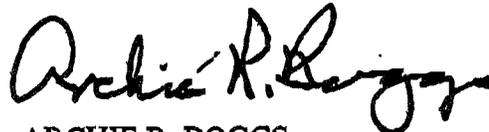
46 USC 7704 (b) provides as follows:

"If it is shown at a hearing that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 10 years, before the beginning of the proceedings, has been convicted of violating a dangerous drug law of the United States or of a State, the license, certificate, or document shall be revoked."

ORDER

That license No. 842505 and merchant mariner's document No. 437 31 3070 and all other licenses, merchant mariner's documents, and certificates of service, issued to you by the U.S. Coast Guard, or any predecessor authority, now held by you, be and the same are hereby Revoked.

The rules governing appeals are attached hereto.



ARCHIE R. BOGGS
ADMINISTRATIVE LAW JUDGE

Dated: 5 March 2003
New Orleans, Louisiana