ITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

United States of America
United States Coast Guard

vs

MERCHANT MARINER'S DOCUMENT
NO. 608-01-3328
ISSUED TO:
RANDY PASQUARELLA
Respondent

Docket No. 01-0375
CG Activity No. 739022

APPEARANCES:

LT Benjamin Benson, IO
PO Rachel Lynn, IO
For the Coast Guard
Randy Pasquarella, Pro se
For the Respondent

BEFORE: **Hon. Parlen L. McKenna**
Administrative Law Judge

DECISION AND ORDER

This suspension and revocation proceeding was instituted by the United States Coast Guard in the discharge of its duty to promote the safety of life and property at sea. It was brought pursuant to the legal authority contained in 46 U.S.C. § 7701-7705 and was conducted in accordance with the procedural requirements of 5 U.S.C. § 551-559, Part 5 of Title 46 and Part 20 Title 33 of the Code of Federal Regulations (C.F.R.).

The hearing in this matter commenced on Monday, July 30, 2001, in San Diego, CA. LT Benjamin Benson and PO Rachel Lynn, USCG duly authorized Investigating Officers of Marine Safety Office, San Diego, CA, appeared for and represented the Coast Guard. Respondent appeared personally and elected to represent himself. A record of the hearing was made by Kusar & Harris, a certified court-reporting firm. A list of the exhibits entered into evidence are set forth in the Attachment A.

DISCUSSION

On June 1, 2001, the Coast Guard filed a Complaint pursuant to 46 U.S.C. § 7704 and 33 C.F.R Subpart G charging the Respondent with Use of or Addiction to the Use of Dangerous Drugs as follows (See Government Exhibit No. 1):

Factual Allegation: Use of or addiction to the Use of Dangerous Drugs:

The Coast Guard alleges that:

1) That on 28 February 2001, the Respondent took a Pre-employment test;
2) A urine specimen was collected by J.T. Plander of "Quest Diagnostics, Inc.";
3) The Respondent signed a Federal Drug Testing Custody and Control Form;
4) The urine specimen was collected and analyzed by Greystone Health Sciences using procedures approved by the Department of Transportation;
5) That specimen subsequently tested positive for Marijuana Metabolite.

The Respondent has entered a plea of "admit" to the above charge and allegations in his filed Answer. (See also July 30, 2001 TR at pg 6). However, he asked for a hearing in order to plead for leniency. The Respondent further stated that he was drinking at the time and used bad judgment. Finally, he states that this was his first time using marijuana and that he has no history of drugs in his life (See Government Exhibit No. 2). 46 C.F.R. § 5.59(b) provides, in pertinent part, that in Misconduct cases involving marijuana, "the administrative law judge may enter an order less than revocation when satisfied that the use, possession, or association, was the result of experimentation... ." This case squarely falls within the ambit of this regulation. However, the Respondent was not charged with the lesser offense of Misconduct under 46 USC § 7703. He was charged with the more serious offense of use of dangerous drugs under 46 USC § 7704 which carries only one sanction -- Revocation absent a showing of "cure". The record does not reflect why the Coast Guar decided to charge the Respondent with the more serious offense. Indeed, over the last twelve years, I have seen very few, if any, one-time marijuana users charged with Misconduct -- only use of dangerous drugs. If it is the Coast Guard's policy not to utilize the lesser charge in appropriate cases, it might want to delete § 5.59(b). Administrative law judges do not set policy and rightfully so. However, the Coast Guard might want to look at its approach to this issue to determine if the judges should be allowed the discretion of ordering less than revocation in rare cases such as this.

The finding of facts and conclusions of law which follow are prepared upon my analysis of the entire record, and applicable regulations, statutes, and case law. Each exhibit entered, although perhaps not specifically mentioned in this decision, has been carefully reviewed and given thoughtful consideration.

FINDINGS OF FACT

1. Randy Pasquarella, the Respondent herein, was at all times the holder of Merchant Mariner's Document No. 608-01-3328. Respondent's document issued at Seattle, Washington and expires on October 30, 2005, authorizes him to serve as: Able bodied-Spec, wiper, Steward's Department (Food handler), Tankerman-Assistant (DL) (See Government Exhibit No. 7).

2. Timely and proper notice w ;iven to the Respondent of the date, tir ınd place of hearing (See Government Exhibit No. 6) (marked and admitted herein).

3. Respondent was fully advised of his right to counsel and stated on the record that he wished to proceed pro se (See July 30, 2001 TR at pg 4).

4. The Respondent filed an answer of "admit" to Use of or Addiction to the Use of Dangerous Drugs and the supporting allegations pursuant to 33 C.F.R.§ 20.308. Respondent had been fully informed as to the consequences of such a plea. Respondent entered his answer of "admit" voluntarily, intelligently, knowingly and was at the time fully aware of the possible consequences of such an answer.

5. The Respondent re-affirmed his answer of "admit" in open hearing. Such an answer operates as an admission of all matters of fact as charged and averred and constituted a waiver of all non-jurisdictional defects and defenses, and obviates the requirement for establishing a prima facie case.(46 C.F.R. 5.527 (c); Appeal Decision No. 2363-Arnold; Appeal Decision No. 2376-Frank; Appeal Decision No. 2458-German and Appeal Decision No. 2480-Lett).

6. The Respondent's prior disciplinary record, maintained by the U.S. Coast Guard, indicates a negative prior record. This exhibit was received post-hearing and admitted herein (See Government Exhibit No. 8).

7. The acts and conduct of Respondent are within the suspension and revocation jurisdiction provided by Title 46 USC § 7704, 46 C.F.R. Part 5 and Title 33 C.F.R. Part 20.

8. The Findings of Fact recited at the hearing and the rational discussed are specifically incorporated herein.

9. 46 USC § 7704 (c) provides that if a holder has been shown to be a user of a dangerous drug, his merchant mariner document shall be revoked absent satisfactory proof of "cure". The administrative law judge has no discretion in cases brought under 46 USC § 7704 (c) to grant any respondent leniency.

10. 46 C.F.R. § 5.521(b) provides that when a hearing is continued or delayed, the administrative law judge returns the document to the Respondent "unless a prima facie case has been established that the respondent committed an act or offense which shows that the respondent's service on a vessel would constitute a definite danger to public health, interest or safety at sea".

11. The burden of proof for such a showing is on the Coast Guard.

12. By the submission of reliable and probative evidence, the Coast Guard met that burden. Indeed, when the Coast Guard established a prima facie case that the Respondent was a user of dangerous drugs (marijuana), it concurrently made a prima facie case that the Respondent "committed an act or offense which shows that [his] service on a vessel would constitute a definite danger to public health, interest or safety at sea" under 46 C.F.R. § 5.521(b).

13. Upon the establishment of a prima facie showing that the Respondent's "service on a vessel would constitute a definite danger to public health, interest or safety at sea", the burden of going forward shifts to the Respondent to rebut the Coast Guard's prima facie case (See Decision and

Order (Clay), Docket No. 11-[illegible]7-PLM-92, dated March 18, 1992, pa[illegible]; Affirmed by Review No. 18, dated March 30, 1992).

14. By the submission of Respondent's Exhibits A through Q, the Respondent rebutted the Coast Guard's prima facie showing that he should not get his merchant mariner document back pending completion of the "cure" process. The Coast Guard did not proffer any surrebuttal. Thus, pursuant to 46 C.F.R.§ 5.521(b), the Coast Guard has failed to demonstrate that the Respondent's return "service on a vessel would constitute a definite danger to public health, interest, or safety at sea and his document is required by that regulation to be returned pending completion of the "cure" process.

CONCLUSIONS OF LAW

1. The Respondent and the subject matter of the hearing are within the jurisdiction vested in the United States Coast Guard by 46 § USC 7704.

2. The allegations supported by the filing of the Complaint for Use of or Addiction to the Use of Dangerous Drugs (marijuana metabolite) is proved by Respondent's answer of "admit" filed herein and entered at the hearing.

3. The only available sanction for a Charge of Use of or Addiction to the Use of Dangerous Drugs (marijuana metabolite) is REVOCATION absent "cure" under Appeal Decision No. 2536 Sweeney.

4. The Respondent met his burden of proof under Sweeney that he had enrolled in a drug rehabilitation program allowing a Stay Order pending proof of "cure".

DISCUSSION

The Respondent was charged in this case with "Use of or Addiction to the Use of Dangerous Drugs" which is defined for the purposes of these remedial suspension and revocation proceedings in 46 USC § 7704. The supporting allegation alleges that on or about February 28, 2001, the Respondent used a dangerous drug, to-wit, Marijuana (metabolite). The Respondent having plead "admit" resulted in a finding of charge proved.

> 46 USC § 7704 (c) provides: If it is shown that a holder has been a user of, or addicted to, a dangerous drug, the license, certificate of registry, or merchant mariner's document shall be revoked unless the holder provides satisfactory proof that the holder is cured.

46 USC § 7704 (a) defined "dangerous drug" to include marijuana (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 USC § 802) (Present version at 46 USC § 2101(8a)). In drug use cases, the only authorized sanction is revocation unless the Respondent successfully demonstrates "cure". 46 USC § 7704(c); 46 C.F.R. § 5.59; Appeal Decision No. 2476 (BLAKE) affd sub nom Commandant v. Blake, NTSB Order EM-156 (1989); and 2518 (HENNARD). The burden of establishing "cure" is on Respondent. Appeal Decision 2526 (WILCOX).

In order to prove "cure" ıder 46 USC § 7704(c), the Responder ıust (1) successfully complete a bonafide drug abuse rehabilitation program and (2) demonstrate a complete non-association with drugs for a minimum period of one year following successful completion of the rehabilitation program (See Appeal Decision 2546 (Sweeney). These requirements include:

> (1) Demonstrates successful completion of a bona fide drug abuse rehabilitation program designed to eliminate physical and psychological dependence;
>
> (2) Demonstrates, to the satisfaction of the Administrative Law Judge, that the referenced program is certified by a governmental agency, or is accepted by an independent professional association;
>
> (3) Demonstrates complete non-association with drugs for a minimum period of one (1) year following successful completion of the above program; including the submission of the results of unannounced drug test for twelve (12) months following completion of the rehabilitation program;[1] and attendance at a minimum of one (1) AA/NA meeting per week for fifty-two (52) consecutive weeks; and
>
> (4) Provide written consent by a Medical Review Officer (MRO), meeting the qualifications of 49 C.F.R. § 40.33, that the Respondent is a reasonably safe risk to be allowed to return to maritime employment in accordance with 46 C.F.R. § 16.370(d).

Pursuant to Sweeney, a Respondent must have commenced the "cure" process prior to the hearing date in order to obtain a judicial stay of his revocation. Mr. Pasquarella entered an approved rehabilitation program on June 22, 2001 (See Respondent's Exhibit A)[2]. Thus, the Respondent has fully complied with the legal requirements to obtain a stay of the Revocation Order for approximately twelve (12) months from July 20, 2001 for him to complete the "cure" process. The Coast Guard did not oppose a continuance in this case and did not dispute the fact that the Respondent had met his legal burden concerning the grant of a continuance to demonstrate "cure" (See July 30, 2001 TR at pg. 9).

Separate and apart from the issue of "cure", the Respondent has requested leniency and raised the question of whether he can have his document returned to him prior to completing the one (1) year non-association with drugs. 46 C.F.R. § 5.521(b) provides that when a hearing is continued or delayed, the judge shall return the document unless a prima facie case has been established that the individual would pose a definite danger to public health, interest or safety at sea.

The Coast Guard proffered documentary and witness testimony sufficient to establish a prima facie case that the Respondent is a user of dangerous drugs. That showing was unrebutted and the charge was found proven. By such evidence, the Coast Guard also established a prima facie case that the Respondent would pose a definite danger to public health, interest and safety at sea. Prior to the commencement of the hearing, the Respondent asked if he could get his

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[1] The Respondent has agreed to furnish the Coast Guard with specific evidence of cure. The Coast Guard will be required to examine such evidence and indicate to the Judge by written pleading whether or not the Respondent is "cured" within the meaning of 46 U.S.C. § 7704(c) and whether or not he should get his Merchant Mariner's Document back.

[2] Importantly, this Respondent could have attended a two week approved program and started the clock running 15 days earlier. Instead, he traveled to Valley Lee, Md. and enrolled in the Seafarers Addiction Rehabilitation Center.

document back in less than tw e months. Since he was not represente y counsel, I informed him that it was possible but only if he produced evidence under 46 C.F.R. § 5.521(b) to rebut any showing that the Coast Guard might make that he should not get his document back pending the "cure" process after six (6) months. The Respondent indicated that he wanted the opportunity to present such evidence and I ordered the case re-opened. 46 C.F.R. § 5.521(b) places the burden of proof that the Respondent not get his document back pending "cure" on the Coast Guard. This regulation does not make a prima facie showing by the Coast Guard conclusive nor does it establish a irrebuttable presumption. Thus, the Respondent has the legal right to present evidence in an attempt to rebut the Coast Guard's prima facie case. Moreover, this regulation is silent as to when the Respondent must submit his/her rebuttal of the Coast Guard's prima facie showing concerning the return of the merchant mariner papers. Using a rule of reasonableness, that showing would necessarily not occur until sufficient time had passed for the Respondent to show that he is no longer a definite danger and his papers should be returned pending "cure". A stay has already been granted in order for the Respondent to complete the "cure" process. Thus, absent a rational explanation, the question arises as to whether it would be an abuse of discretion not to allow the Respondent an opportunity to re-open the hearing so he can demonstrate that he is not a danger (See Khalaj v. Cole, 46 F.3d, 828, 832 (8th Cir. 1995)).

Importantly, in the case of marijuana use, that showing might occur as soon as he completes his initial rehabilitation program and has passed a minimum number of monthly random drug tests to insure that he no longer is using drugs. At that point, a respondent is eligible to be evaluated by an MRO under 46 C.F.R. § 16.370(d). In the case of other drugs such as cocaine or heroin, the full year might be required in order to protect the public. Indeed, marijuana metabolite stays in ones system for approximately twenty-one (21) days (See January 30, 2002 TR at pg 54). Thus, if the judge imposes monthly random drug testing for one (1) year beyond the six (6) month period after completion of his initial rehabilitation program (no test being more than thirty (30) days apart), the Respondent could not use marijuana without getting caught. In other words, he is definitely not a danger given the fact that he has complied with 46 C.F.R. § 16.370(d) and has obtained a letter from a Medical Review Office that he is drug-free and the risk of subsequent use of dangerous drugs is sufficiently low to justify his return to work.

Conversely, cocaine only stays in one's system for approximately three (3) days. Thus, any rebuttal of the Coast Guard's prima facie case would appear to be very difficult. The margin of error in catching a mariner using this drug increases exponentially[3]. This is not to say that a given respondent could not rebut the Coast Guard's prima facie showing, it only points out that such a showing is much more difficult and must be carefully weighed by the administrative law judge under the law as it now stands.[4]

At the July 30, 2001 hearing, I asked what the Coast Guard's position was concerning the Respondent getting his document back after six (6) months under 46 C.F.R. § 5.521(b) if he could show that he was not a definite danger to public health, interest or safety at sea. The Senior Investigating Officer replied as follows:

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[3] Ironically, the Coast Guard's current policy under Sweeney is to require random drug tests once every 60 days for all drug uses including Cocaine. Sixty days is too great of a spread for the short interval that a mariner would test positive. The public interest would seem to warrant a significantly great frequency.

[4] Importantly, if the Coast Guard determines as a matter of policy that the danger is too great for users of illegal drugs to have their papers returned in less than twelve months, it may so find as long as it sets forth a reasoned and non-arbitrary rationale in accordance with the requirements set forth in the Administrative Procedure Act (5 USC § 554 et.seq).

> Lieutenant Benson: Well, your Honor, the matter before the court is about trust and how to re-establish trust, in that he is not using drugs. And the Commandant's decision on appeals establish a minimum of a one-year period of time that a person who has failed a drug test show that they are free of drugs to do that; so the Coast Guard's only position is that that is the only standard that he can be held to. (See July 30, 2001 TR at page 22).

I disagree. The issue is not one of do we trust this Respondent to stay off of drugs. It is neither the Investigating Officer nor the judge's role to become involved in such an analysis. 46 CFR § 16.370(d) places such decisions where they belong - - in the hands of the Medical Review Officer. If the medical doctor finds that the Respondent is a low risk of return to drug use, that medical opinion should be determinative absent rebuttal evidence to the contrary.[5]

The re-opening date was set for January 30, 2002. At that time, the Respondent proffered his rebuttal to the Coast Guard's prima facie showing under 46 C.F.R. § 5.521(b).[6] Specifically, the Respondent entered into and successfully completed a Continuing Care Agreement with the rehabilitation center (See Respondent's Exhibits No. B and M). He also proffered exhibits demonstrating that he has no prior drug or alcohol record (See Respondent's Exhibits No. C, D, E, G and H). The Respondent introduced negative drug test results and attendance at AA/NA meetings (See Respondent's Exhibits No. F, K, L, O, P and Q). The Respondent introduced letters of recommendation (See Respondent's Exhibits I and J). Finally, the Respondent produced a letter from Greystone Health Sciences Corporation (the Medical Review Officer) finding that he is a reasonable safe risk to be allowed to return to maritime employment in accordance with 46 C.F.R. § 16.370(d) (See Respondent's Exhibit No. N).

The seminal case concerning this issue was the United States Coast Guard v. David D. Clay (Merchant Mariner Document No. Z569-27-3733, Docket No. 11-0007-PLM-92, issued March 18, 1992). That case concerned the same factual circumstance as the case at bar. In order to explain the United States policy concerning illegal drug use by merchant mariners, the following historical reference was recited:

> In promulgating its regulations in 49 C.F.R. Part 40, the Coast Guard stated:
>
> This final rule is logical extension of existing regulations to ensure a drug-free working environment in the maritime community. The regulations provide for positive and aggressive action to identify users of dangerous drugs before they are involved in incidents which bring them to the attention of the Coast Guard. The regulations are intended to ensure that uses of dangerous drugs are not issued licenses, certificates of registry, or merchant mariner's documents, and are not accepted for employment on vessels engaged in commercial operations. Drug users and abusers will either be deterred from continued drug use or will be faced with sufficient probability of being identified in the workplace and precluded from employment in the industry when such use is detected through chemical testing.

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[5] Coast Guard Investigating Officers have recommended the early return of licenses/documents in other cases cited herein. It is important that a uniform policy be developed.

[6] The Respondent had previously entered an exhibit showing his enrollment and completion of an approved drug rehabilitation program (See Respondent Exhibit No. A).

Federal Register, vol. 5 ›age 47065, dated November 21, 1988

In Transportation Institute vs. U. S. Coast Guard, 727 F. Supp. 648, 654 (D.D.C. 1989), the Court stated:

> The Government's interests can be summarized in one word: safety. Incorporated into this safety interest are the interests of maintaining a drug-free work-place, deterring employees engaged in safety-sensitive tasks from using controlled substances, and ensuring that employees will be prepared to respond quickly and effectively in an emergency situation aboard a commercial vessel. These safety interests for the maritime industry are indistinguishable from those safety interests identified in Skinner for the railroad industry, which the Supreme Court found to be compelling. In each of the categories of testing analyzed by the Court, the Government's compelling interest in safety will be weighed against the individual's privacy interest to determine if the warrantless searches mandated by the regulations are reasonable under the Fourth Amendment.
>
> Thus, "ZERO TOLERANCE" is not just an empty slogan espoused by the President of the United States, the Congress and the Coast Guard. It is the policy of our government to insure the health and welfare of its citizens and to protect the public interest. (See Clay Decision and Order at pages 5-6).

Just like this case, the Respondent asked if he could have his document returned to him prior to completing the one (1) year demonstration of non-association with drugs as set forth in Sweeney. After fully considering the issue, I found that he could not until he had satisfied the requirements of 46 C.F.R. § 16.370(d) and 46 C.F.R. Part 5. 46 C.F.R. § 16.370(d) requires that before an individual may return to work, the Medical Review Officer must find that the individual is drug-free and the risk of subsequent use of dangerous is sufficiently low to justify his return to work. 46 C.F.R. Part 5 concerning Marine Investigation Regulations – Personnel Action – the hearing before an administrative law judge dealing with 46 USC § 7704 Suspension and Revocation proceedings. In such cases, I specifically found that 46 C.F.R. § 5.521(b) provides "that when a hearing is continued or delayed, for example pending a determination of "cure" (emphasis added), the judge shall return the document unless a prima facie case has been established that the individual would pose a danger to public health, interest or safety at sea" (Decision and Order at page 6).

In the Clay case, the Respondent did not have a drug free letter from MRO to return to work and he had not rebutted the Coast Guard's prima facie showing that he was a definite danger to public health, interest or safety at sea. Thus, having failed to satisfy both conditions precedent, an Order issued denying Mr. Clay's request for the return of his document pending completion of the "cure" process. Because of the importance of this issue, the Vice Commandant called up for review my Decision and Order of March 18, 1992 pursuant to 46 C.F.R. § 5.801. After fully considering the issue, the Vice Commandant's Decision on Review No. 18 was issued on March 30, 1992 AFFIRMING my Decision and Order, in Toto. The Vice Commandant stated:

> I specifically concur with the Administrative Law Judge's ruling and rationale (emphasis added) in refusing to return the document. Upon review, I conclude that, where a prima facie case of drug use is established by the Investigating

Officer to the satisfac of the Administrative Law Judge, suf ent cause exists to withhold return of the license and/or document pursuant to the provisions of 46 C.F.R. § 5.521(b).

Accordingly, the legal framework concerning the "cure" process under Sweeney and whether a mariner can work under this license/document has been clearly defined by the Commandant since March 30, 1992. While there are only a handful of cases where a mariner's papers were returned in less than the time required to complete "cure", the Investigating Officer and the presiding judge used their best judgment to achieve the best result. (E.g., See Docket Nos 00-0214 (Scrivens); 00-0833 (Sunquist); 07-0006-MEH-96 (Miller); 07-0020-MEH-96 (Bills); 07-0067-MEH-96 (Vickery, Jr.); and 07-0007-MEH-96 (Davis, Jr.).

ORDERED

IT IS HEREBY ORDERED that Merchant Mariner's Document No.608-01-3328 issued to Randy Pasquarella, the Respondent herein, and all other valid licenses and/or documents issued to him by the United States Coast Guard, or any predecessor authority, now held by him, are hereby REVOKED effective July 30, 2001 (the date of the hearing where the Charge was found proven). However, in consideration of the remedial nature of these proceedings, this Order of Revocation is STAYED and shall not be effective under the following conditions and in accordance with Sweeney, he will:

(1) Demonstrate successful completion of a bona fide drug abuse rehabilitation program designed to eliminate physical and psychological dependence; and to provide a copy of the certificate of completion to the U.S. Coast Guard immediately upon graduation. Provide proof that the referenced program is certified by a governmental agency, or is accepted by an independent professional association;[7]

(2) Demonstrate, complete non-association with drugs for a minimum period of one (1) year following successful completion of the above program; by completing and submitting results for the following on a monthly basis to the U.S. Coast Guard

a) During the one (1) year period following the return of the Respondent's document pursuant to the 46 C.F.R. § 5.521(b) hearing, submit to at least twelve (12) random unannounced drug tests (with no two tests more than thirty days apart);

b) Demonstrate that the random tests were scheduled by an independent third party, not the Respondent; that notification of each required test was made by a third party to the Respondent and that the Respondent provided a urinalysis specimen within twelve (12) hours of notification;

c) Demonstrate that each random drug test was done at an approved Collection site and Laboratory facility, using proper chain of custody and testing cutoff levels as required by 49 C.F.R. Part 40.

(3) Attend and provide written record of attendance at a minimum of one (1) AA/NA meeting per week for twenty-six (26) consecutive weeks; and

[7] This requirement has already been meet.

(4) Provide written con t by a Medical Review Officer (MRO) eeting the qualifications of 49 C.F.R. § 40.33 that the Respondent is a reasonably safe risk to be allowed to return to maritime employment in accordance with 46 C.F.R. § 16.370(d).[8]

ORDERED, that the Coast Guard has made a prima facie case pursuant to 46 C.F.R. § 5.521(b) that the Respondent is a definite danger to public health, interest or safety at sea. The Respondent was Ordered at the July 30, 2001, hearing to immediately surrender his document to the Coast Guard;

ORDERED, that at the January 30, 2002, reopening, the Respondent rebutted the Coast Guard's prima facie case that he was a definite danger to public health, interest and safety at sea. Accordingly, the Coast Guard was ORDERED to immediately return the Respondent's document to him;

ORDERED, that if the Respondent successfully establishes "cure" under the requirements established in SWEENEY, a finding of "cure" will be entered and an Order of Modification containing the following sanction, will take effect:

ORDERED, that **Merchant Mariner's Document No. 608-01-3328** and all other valid licenses and certificates issued to RANDY PASQUARELLA, by the United States Coast Guard are hereby **SUSPENDED** for a period of **Six (6)** months following Respondent's successful completion of the initial rehabilitation program set forth above. In addition, the Respondent shall be on probation for the twelve (12) months following the date his merchant mariner's document was returned (January 30, 2002). Any violation of the requirements set forth herein may result in the REVOCATION of the Respondent's document.

Hon. PARLEN L. MCKENNA
Administrative Law Judge

Done and dated this 19th day of February 2002
Alameda, California

Copy:
MSO San Diego
CGD11(m);
ALJ Docket Center

[8] This requirement has already been meet.