

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

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UNITED STATES COAST GUARD

Complainant

vs.

RENALDO JONES

Respondent.

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Docket Number CG S&R 02-0110  
CG Case No. PA01002212

**DECISION AND ORDER**

**Issued by: Archie R. Boggs, Administrative Law Judge**

**PRELIMINARY STATEMENT**

This proceeding is brought pursuant to the authority contained in 5 USC 551-559; 46 USC Chapter 77; 46 Code of Federal Regulations, Parts 5 and 16; and 33 CFR Part 20.

Renaldo Jones was served with a Complaint dated 19 February 2002 which was issued by U.S. Coast Guard Investigating Officer LTJG C. C. Culotta of the Marine Safety Office New Orleans, LA.

The factual allegations are "Misconduct" in that on "on August 3, 2001 the Respondent refused to take a random drug test ordered by Kirby Corporation.."

On 25 March 2002 Mr. Jones filed an Answer in which he denied the jurisdictional allegations. He had no comment with regard to the factual allegations. In his answer he stated "I lost my MMD and now I'm signing over my right, my MMD until this matter is resolve (sic)." He requested a hearing.

A hearing was held on 15 May 2002 at the Marine Safety Office, 1615 Poydras Street, New Orleans, 70112.

Although all of his rights were fully explained to him, including his right to be represented by professional counsel, Mr. Jones elected to represent himself.

In support of the Complaint the Investigating Officer introduced in evidence the testimony of two witnesses: (1) Melissa Bottoms, medical records assistant for Kirby Corporation and; (2) Jose Perez, collector for Houston Medical Testing Services.

In addition to the testimony of the two (2) aforementioned witnesses the Investigating Officer introduced in evidence three (3) exhibits.

I.O. Exhibit No. 1 – a letter from Ms. Bottoms addressed to the U.S. Coast Guard Marine Safety Office informing that office of Mr. Jones' refusal to test for drugs on 3 August 2001.

I.O. Exhibit No. 2 – a copy of a completed Drug Testing Custody and Control Form, copy No. 4, which is signed by Renaldo Jones. However, the notation "refusal" is at the top of the form.

I.O. Exhibit No. 3 – a copy of a letter addressed to the Coast Guard Marine Safety Office dated 2 May 2002 signed by Lydia Danos, office manager for Lorris G. Towing Corporation, which letter further advised the Coast Guard of Mr. Jones' refusal to submit a specimen on 3 August 2001, together with a copy of the company's "drug and alcohol abuse" program.

Mr. Jones did not testify, nor did he call any witnesses. He produced two exhibits.

Respondent Exhibit A – is a "wage record file inquiry."

Respondent Exhibit B – is a "claimant's statement – voluntary leave, unemployment insurance claims," in which Mr. Jones states that his reason for quitting the vessel was "improper use of my social security number."

At the conclusion of the hearing the Administrative Law Judge took the matter under advisement. It is now concluded that the allegations of the Complaint are proved. Mr. Jones offered no evidence to refute the charge.

### FINDINGS OF FACT

1. The Respondent, Renaldo Jones, was the holder of the Merchant Mariner's Document No. [REDACTED]
2. In his answer the Respondent stated that the above referred to document was lost.
3. On 3 August 2001 Mr. Jones was serving on the towing vessel Lady G II.
4. Kirby Inland Marine charters all vessels owned and operated by Lorris G. Towing Corporation. Lorris G. Towing Corporation employees are subject to all guidelines set forth by Kirby Inland Marine, which includes a random drug and alcohol abuse policy.
5. On 3 August 2001 a representative from Kirby Inland Marine boarded the Motor Vessel Lady G II with the purpose of drug testing the crew members.
6. Each crew member was requested to furnish a urine specimen for analysis.
7. Mr. Jones failed to comply with the request and he packed his belongings and left the vessel.

### ULTIMATE FINDINGS

Renaldo Jones on 3 August 2001 refused to provide a specimen for a random drug test as ordered by Kirby Inland Marine.

### OPINION

The regulations which provide for chemical testing of mariner's is set forth in 46 CFR

Part 16. Those regulations list five (5) different categories for testing as follows:

- (1) Pre-employment (46 CFR 16.210)
- (2) Periodic (46 CFR 16.220)
- (3) Random (46 CFR 16.230)
- (4) Serious Marine Incident (46 CFR 16.240), and
- (5) Reasonable Cause Testing (46 CFR 16.250)

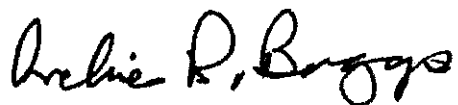
The testimony indicates that Mr. Jones was required to take a random test in accord with the above quoted regulations. Mr. Jones refused to submit a specimen in order that the test could be completed.

The Commandant of the Coast Guard has repeatedly ruled that refusal to submit a urine specimen for a drug test is tantamount to a positive report for drugs.

Mr. Jones previously tested positive for prohibited drug. He underwent and completed a rehabilitation program after voluntarily depositing his document on 21 September 1999.

ORDER

Merchant mariner's document No. [REDACTED] issued to Renaldo Jones, is revoked.



ARCHIE R. BOGGS  
ADMINISTRATIVE LAW JUDGE

Dated: 12 June 2002  
New Orleans, Louisiana