

UNITED STATES OF AMERICA
U.S. DEPARTMENT OF HOMELAND SECURITY
UNITED STATES COAST GUARD

UNITED STATES COAST GUARD
Complainant

vs.

ROBERT RYAN BOUDREAUX
Respondent

Docket Number 2018-0071
Enforcement Activity No. 5748463

ORDER MEMORIALIZING BENCH DECISION

Issued: October 18, 2018

By Administrative Law Judge: Honorable Dean C. Metry

Appearances:

**CWO John A. Christie
Sector New Orleans**

**Jennifer A. Mehaffey, Esq. and
Lineka N. Quijano, Esq.
Suspension and Revocation National Center of Expertise**

For the Coast Guard

David Kish, Esq.

For the Respondent

On October 16, 2018, the undersigned administrative law judge (ALJ) convened a hearing in New Orleans, Louisiana, in the above-captioned case. At the conclusion of the hearing on October 18, 2018, the parties waived their right to file post-hearing briefs, and the undersigned rendered an oral decision in favor of the United States Coast Guard (USCG). See 33 C.F.R. § 20.902; 33 C.F.R. § 20.710. Specifically, the undersigned found the USCG proved Robert Ryan Boudreaux (Respondent) committed an act of misconduct by a preponderance of the evidence. See 46 U.S.C. § 7703(1)(B).

As required by applicable law and regulations, the undersigned imposed the following sanction: Respondent shall be on probation for a period of one year commencing on the date of the oral decision. During this period of probation, Respondent's Merchant Mariner Credential (MMC) shall be suspended outright for a period of ninety (90) days, commencing on October 18, 2018. See 46 C.F.R. § 5.569. During the period of outright suspension, Respondent may not act under the authority of his MMC in any capacity or accept any position requiring an MMC. During the probation period, if the USCG proves by preponderant evidence that Respondent violated any Federal, State, or local law or regulation, his MMC shall be suspended outright for an additional period of six months.¹

The hearing transcript, which will be made available to both parties upon request, contains the record of the proceedings in its entirety, including the oral decision and sanction.

WHEREFORE,

¹ To the extent that this Order conflicts with the oral decision, this Order controls.

ORDER

IT IS HEREBY ORDERED, MMC 000385169 and all other existing Coast Guard licenses, certificates, credentials and documents issued to Respondent are **SUSPENDED OUTRIGHT FOR NINETY (90) DAYS, COMMENCING ON OCTOBER 18, 2018. BEGINNING OCTOBER 18, 2018, RESPONDENT SHALL BE ON PROBATION FOR A PERIOD OF ONE YEAR. DURING THE PROBATION PERIOD, IF THE USCG PROVES BY PREPONDERANT EVIDENCE THAT RESPONDENT VIOLATED ANY FEDERAL, STATE, OR LOCAL LAW OR REGULATION, HIS MMC SHALL BE SUSPENDED OUTRIGHT FOR AN ADDITIONAL PERIOD OF SIX MONTHS.** If Respondent has not already done so, Respondent **SHALL IMMEDIATELY** surrender all Coast Guard issued credentials to USCG Sector New Orleans, 200 Hende Street, New Orleans, LA 70114. Respondent shall receive credit toward his one year's probation and three months' outright suspension on the date he deposits any credentials in his possession with the Coast Guard.²

PLEASE TAKE NOTICE, service of this Order provides additional notice of your right to appeal as set forth in 33 C.F.R. §§ 20.1001-20.1004. See Attachment A. The appeal time runs from the date the ALJ rendered the oral decision on October 18, 2018. Either party may request a copy of the transcript by contacting the undersigned's paralegal, Janice Emig, at Janice.M.Emig@uscg.mil or (409) 765-1300.

<p>Dean C. Metry U.S. Coast Guard Administrative Law Judge</p> <p>Date: October 22, 2018</p>
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² The record shows Respondent deposited a temporary MMC during the hearing. If Respondent has no other valid credentials in his possession, he shall receive credit beginning on October 18, 2018.

ATTACHMENT A

33 C.F.R. § 20.1001 General.

- (a) Any party may appeal the ALJ's decision by filing a notice of appeal. The party shall file the notice with the U. S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022. The party shall file the notice 30 days or less after issuance of the decision, and shall serve a copy of it on the other party and each interested person.
- (b) No party may appeal except on the following issues:
 - (1) Whether each finding of fact is supported by substantial evidence.
 - (2) Whether each conclusion of law accords with applicable law, precedent, and public policy.
 - (3) Whether the ALJ abused his or her discretion.
 - (4) The ALJ's denial of a motion for disqualification.
- (c) No interested person may appeal a summary decision except on the issue that no hearing was held or that in the issuance of the decision the ALJ did not consider evidence that that person would have presented.
- (d) The appeal must follow the procedural requirements of this subpart.

33 C.F.R. § 20.1002 Records on appeal.

- (a) The record of the proceeding constitutes the record for decision on appeal.
- (b) If the respondent requests a copy of the transcript of the hearing as part of the record of proceeding, then, --
 - (1) If the hearing was recorded at Federal expense, the Coast Guard will provide the transcript on payment of the fees prescribed in 49 CFR 7.45; but,
 - (2) If the hearing was recorded by a Federal contractor, the contractor will provide the transcript on the terms prescribed in 49 CFR 7.45.

33 C.F.R. § 20.1003 Procedures for appeal.

- (a) Each party appealing the ALJ's decision or ruling shall file an appellate brief with the Commandant at the following address: U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022, and shall serve a copy of the brief on every other party.
 - (1) The appellate brief must set forth the appellant's specific objections to the decision or ruling. The brief must set forth, in detail, the --
 - (i) Basis for the appeal;
 - (ii) Reasons supporting the appeal; and
 - (iii) Relief requested in the appeal.
 - (2) When the appellant relies on material contained in the record, the appellate brief must specifically refer to the pertinent parts of the record.
 - (3) The appellate brief must reach the Docketing Center 60 days or less after service of the ALJ's decision. Unless filed within this time, or within another time period authorized in writing by the Docketing Center, the brief will be untimely.
- (b) Any party may file a reply brief with the Docketing Center 35 days or less after service of the appellate brief. Each such party shall serve a copy on every other party. If

the party filing the reply brief relies on evidence contained in the record for the appeal, that brief must specifically refer to the pertinent parts of the record.

(c) No party may file more than one appellate brief or reply brief, unless --

(1) The party has petitioned the Commandant in writing; and

(2) The Commandant has granted leave to file an added brief, in which event the Commandant will allow a reasonable time for the party to file that brief.

(d) The Commandant may accept an amicus curiae brief from any person in an appeal of an ALJ's decision.

33 C.F.R. § 20.1004 Decisions on appeal.

(a) The Commandant shall review the record on appeal to determine whether the ALJ committed error in the proceedings, and whether the Commandant should affirm, modify, or reverse the ALJ's decision or should remand the case for further proceedings.

(b) The Commandant shall issue a decision on every appeal in writing and shall serve a copy of the decision on each party and interested person.