

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

UNITED STATES COAST GUARD,

Complainant,

vs.

DANIEL ANTHONY SCUORZO,

Respondent.

**Docket Number: 2023-0221
Enforcement Activity Number: 7710931**

ORDER GRANTING COAST GUARD MOTION TO WITHDRAW CASE

Issued by: Honorable Walter J. Brudzinski, Chief Administrative Law Judge

Issued: December 5, 2023

This matter comes before me on the United States Coast Guard's (Coast Guard) Motion to Withdraw, submitted on December 4, 2023 (Motion). Specifically, the Coast Guard requests an order dismissing the case, without prejudice, in accordance with 33 C.F.R. § 20.311. For the reasons set forth herein, I **GRANT** the Coast Guard's motion.

The Coast Guard initiated this administrative proceeding by filing a Complaint on June 29, 2023, seeking to revoke Daniel Anthony Scuorzo's (Respondent) Merchant Mariner Credential (MMC) for drug use in violation of 46 U.S.C. § 7704(b). The Coast Guard alleged Respondent took a required random drug test pursuant to 46 C.F.R. Part 16 on May 12, 2023, in which his urine specimen tested positive for cocaine metabolites.

On November 27, 2023, I convened a telephone pre-hearing conference at the Coast Guard's request. The purpose of the conference was to ascertain whether Respondent intended to continue participating in his suspension and revocation proceeding, as he stopped responding to the Coast Guard's telephone and email communications. Respondent did not appear at the conference. *See* Order dated November 28, 2023.

After the conference, on November 28, 2023, Respondent contacted the Coast Guard via email indicating he intended to surrender his MMC. *See* Motion, Exhibit B. The Coast Guard informed Respondent how he could surrender his credential and provided him with a Voluntary Surrender form. *Id.* On December 4, 2023, Respondent sent his MMC to the Coast Guard Suspension & Revocation National Center of Expertise. *See* Motion, Exhibit A. He included a handwritten, signed statement, but did not include the Voluntary Surrender form. *Id.* The note states Respondent is retiring. Because Respondent surrendered his MMC, I canceled the hearing scheduled to begin on December 5, 2023. *See* Order dated December 4, 2023.

Pursuant to 33 C.F.R. § 20.311(c), an administrative proceeding may not end in withdrawal “unless approved by an ALJ upon such terms as she or he deems proper.” Dismissal “resides within the discretion of the ALJ.” 33 C.F.R. § 20.311(e). Here, Respondent voluntarily surrendered his credential to the Coast Guard to avoid appearing at the hearing. *See* 46 C.F.R. § 5.203. He signed a written statement indicating he was voluntarily surrendering the MMC. *See* Motion, Exhibit A.¹ Respondent knew he was surrendering his credential in lieu of a hearing, and stated he was retiring, indicating he understands he is permanently relinquishing his rights to the MMC. Furthermore, in a series of emails to the court and to the Coast Guard, Respondent

¹ I note the Coast Guard provided Respondent with a Voluntary Surrender form, but he instead submitted a handwritten note.

previously communicated his intention to voluntarily surrender his credential. *See* Motion, Exhibit B.

Upon consideration of the record, I approve the Coast Guard's request for withdrawal and dismissal of the Complaint against Respondent. The Coast Guard's Complaint is **DISMISSED** without prejudice in accordance with 33 C.F.R. § 20.311 and this matter is **WITHDRAWN** from the ALJ Docket.

SO ORDERED.

Done and dated December 5, 2023
New York, NY



HON. WALTER J. BRUDZINSKI
CHIEF ADMINISTRATIVE LAW JUDGE
UNITED STATES COAST GUARD