

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

UNITED STATES COAST GUARD

Complainant

vs.

BRIAN PAUL DOWNEY,

Respondent.

**Docket Number 2024-0340
Enforcement Activity Number 7939733**

ADMISSION ORDER

Issued: August 7, 2024

By Administrative Law Judge: Honorable George J. Jordan

Appearances:

**LT Robert E. Custer
Marine Safety Detachment Nags Head
For the Coast Guard**

**Brian Paul Downey, *Pro se*
For the Respondent**

DECISION AND ORDER

On July 23, 2024, the United States Coast Guard, Marine Safety Detachment Nags Head (Coast Guard) issued a Complaint against Brian Paul Downey (Respondent) alleging violation of regulation, as described by 46 U.S.C. § 7703(1)(A), and defined in 46 C.F.R. § 5.33.

Specifically, the Coast Guard alleges that:

1. The PRIDE OF AMERICA (ON 647914) is a United States flagged vessel, inspected, under 46 U.S.C. Chapter 33.
2. On May 16, 2024, Respondent was a crewmember operating the PRIDE OF AMERICA, as described by 33 C.F.R. § 95.015(b).
3. On May 16, 2024, at approximately 1534, while on board the PRIDE OF AMERICA, Respondent was observed by the vessel's Human Resource Director as smelling of alcohol and very unsteady on his feet.
4. At approximately 1540, while on board the PRIDE OF AMERICA, Respondent was also observed by the Security Officer as having a strong odor of alcohol, watery eyes, and slurred speech.
5. Based on the observations of the Human Resource Director and the Security Officer, Respondent was in violation of the standard in 33 C.F.R. § 95.020(c).
6. Respondent was directed by the Staff Captain, to undergo a chemical test based on reasonable cause, pursuant to 33 C.F.R. § 95.035(a)(2).
7. At approximately 1557, Respondent underwent a reasonable cause chemical test administered by the Security Officer, resulting in a Blood Alcohol Concentration level (BAC) greater than 0.04.
8. At approximately 1615, Respondent underwent a second reasonable cause chemical test administered by the Security Officer resulting in a BAC greater than 0.04.
9. Respondent was in violation of the standards in 33 C.F.R. § 95.020(b).
10. On May 16, 2024, Respondent was under the influence of alcohol, as defined by 33 C.F.R. § 95.010, while aboard the PRIDE OF AMERICA, in violation of 33 C.F.R. § 95.045(b)

Accordingly, the Coast Guard proposes a sanction of three (3) months outright suspension of Respondent's Merchant Mariner Credential (MMC or credential). In Respondent's Answer, dated July 30, 2024, Respondent admits to all jurisdictional and factual allegations, and agrees with the Coast Guard's proposed order of three (3) months outright suspension, with no additional conditions requested.

WHEREFORE,

ORDER

IT IS HEREBY ORDERED that Respondent's violation of 46 U.S.C. § 7703(1)(A) and 46 C.F.R. § 5.33 is **PROVED BY ANSWER**. I have carefully reviewed the file and find that the proposed sanction is appropriate under the provisions of 46 C.F.R. § 5.569.

IT IS FURTHER ORDERED that Respondent's Merchant Mariner Credential (██████████) is **SUSPENDED OUTRIGHT FOR THREE (3) MONTHS**, commencing on the date it is deposited with the Coast Guard. Respondent shall immediately deliver all Coast Guard issued credentials, licenses, certificates, or documents, including the MMC, by mail, courier service, or in person to: LT Robert E. Custer, United States Coast Guard, Marine Safety Detachment Nags Head, 114 W. Wood Hill Dr., Nags Head, NC 27959. In accordance with 18 U.S.C. § 2197, if Respondent knowingly continues to use the Coast Guard issued MMC, Respondent may be subject to criminal prosecution.

PLEASE TAKE NOTICE, service of this Decision on the parties and/or parties' representative(s) serves as notice of appeal rights set forth in 33 C.F.R. §§ 20.1001 – 20.1004. (Attachment A).

Done and dated August 7, 2024,
Seattle, WA



HON. GEORGE J. JORDAN
ADMINISTRATIVE LAW JUDGE
UNITED STATES COAST GUARD