

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
UNITED STATES COAST GUARD

United States of America  
United States Coast Guard

VS

MERCHANT MARINER'S DOCUMENT  
NO.: 153-68-3354  
ISSUED TO:  
DANIEL J. CREAN  
Respondent

Docket No. 99-0446  
PA Case No. PA99002522

APPEARANCES:

LT Michael J. Simbulan,  
For the Coast Guard  
Daniel J. Crean, Pro se  
For the Respondent

BEFORE: **Hon. Parlen L. McKenna**  
**United States 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 Title 46 U.S.C. § 7701-7705 and was conducted in accordance with the procedural requirements of Title 46, code of Federal Regulations (CFR) part 5 and Title 33 CFR part 20.

The hearing in this matter commenced in Honolulu, Hawaii on Monday, March 27, 2000. LT Michael J. Simbulan, USCG duly authorized Investigating Officer of Marine Safety Office, United States Coast Guard, appeared for and represented the Coast Guard. Respondent appeared telephonically. A record of the hearing was made by Powers & Associates, Certified Court-reporting firm. A list of the witnesses who testified and the exhibits entered into evidence are set forth in the Attachment A.

On January 7, 2000, the Coast Guard filed a Complaint pursuant to 46 U.S.C. 7703 and 46 C.F.R 5.27 charging the Respondent with Misconduct and Violation of Law or Violation as follows:

(1) That the Respondent did, on November 19, 1999 at approximately 2015, while the

vessel was at sea, wrongfully refuse to perform duties as a fireman/watertender on the 2000-2400 watch;

- (2) That the Respondent did, on November 19, 1999, at approximately 2050, while the vessel was at sea, wrongfully disobey a lawful command of the Chief Engineer, Chief Mate, First Assistant Engineer and the Human Resources Manager to submit to a Breath Alcohol Test;
- (3) That the Respondent did, on November 19, 1999, at approximately 2100, while the vessel was at sea, wrongfully assault the Chief Mate by threatening to do physical harm;
- (1) That the Respondent was, on November 19, 1999, at approximately 2015, while the vessel was at sea, wrongfully intoxicated as defined by 33 CFR 95.020©, to wit, the Second Engineer observed that Respondent's speech, general appearance, inattentiveness and behavior was apparently affected by the consumption of an intoxicant, a violation of 33 CFR 95.045.

Prior to the hearing in this matter, on March 24, 2000, a pre-hearing conference was held between the United States Coast Guard, the Respondent, **Daniel J. Crean**, and the undersigned. At the conclusion of the pre-hearing conference, the parties requested that a Settlement Agreement be approved by the Administrative Law Judge. The Settlement Agreement provided that the Respondent would enter a plea of no contest to each of the charges that have been brought against him. The parties agreed that the appropriate sanction would be REVOCATION.

In exchange, the Coast Guard has agreed that it would not object to any motion filed by the Respondent seeking to re-open the record after twenty-four (24) months pursuant to 33 CFR § 20.904(f).

**WHEREAS**, the Respondent has been charged with Negligence and Violation of Law or Regulation and has entered a plea of "no contest"; and

**WHEREAS**, such plea was accepted after the Respondent was advised of his due process rights and knowingly and providently chose not to have a hearing on the merits; and

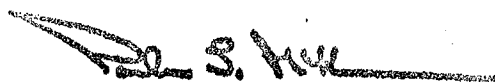
**WHEREAS**, the Respondent has agreed to waive his right to appeal this case and to contest the validity of the instant motion and this Order; and

**WHEREAS**, the Respondent has no prior record with the Coast Guard; and

**WHEREAS**, the Respondent lists his current address as: 115 West Third Avenue, North Wildwood, New Jersey 08260;

**WHEREAS**, both the Respondent and the United States Coast Guard have agreed to the sanction set forth below; it is

**ORDERED**, that the Merchant Mariner's Document No.153 68 3354 issued to Daniel J. Crean, 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.



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**Hon. PARLEN L. MCKENNA**  
**United States Administrative**  
**Law Judge**

**DATED: June 20, 2000**  
**Alameda, California**

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