

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

UNITED STATES COAST GUARD

Complainant

vs.

JOSHUA JAMES SHELDRIK

Respondent

Docket Number: CG S&R 04-0572

CG Case No. 2227646

Order Granting Motion for Withdrawal

Issued: December 15, 2004

Issued by: Jeffie J. Massey, Administrative Law Judge

On October 25, 2004, the United States Coast Guard initiated an administrative proceeding against Merchant Mariner's Documents issued to Joshua James Sheldrick by the United States Coast Guard ("USCG" herein). On November 9, 2004, the Respondent filed an Answer, denying the allegations of the Complaint.

On November 10, 2004, the USCG filed a Motion for Summary Decision. Respondent filed his "Motion to Countermove Against Apposing [sic] Affidavit" on November 30, 2004. On that same date, the undersigned issued an Order Denying

Motion for Summary Disposition and Ordering USCG to Show Cause Why Complaint Should Not Be Dismissed. A response from the USCG on the Show Cause Order was due on or before December 10, 2004. Nothing has been filed by the Respondent in response to the November 30, 2004 Order.

On December 15, 2004, the USCG filed its Motion for Withdrawal with the undersigned, noting that it wished to withdraw the Complaint in the instant proceeding because "This office has learned that the abstract of court records received were in error. The abstract did not reflect the correct conviction dates." The USCG goes on to request that any Order issued by the undersigned with respect to the Motion to Withdraw "state that the Coast Guard may file a new Complaint in this matter."

The undersigned notes that in his November 30, 2004, filing, the Respondent claims that his conviction for DUI pursuant to the October 2001 arrest did not actually occur until sometime in 2002. If this is in fact true, then it is not possible to allege an act of Misconduct based on an allegation that the Respondent unlawfully failed to disclose such a conviction on his December 2001 Application for Raise in Grade.

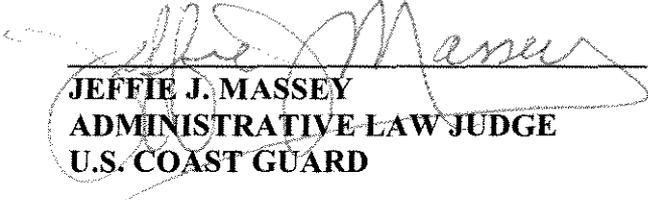
The right to withdraw a Complaint and proceed with a separate proceeding is within the rights of the USCG. Accordingly, the Motion is **GRANTED**. This proceeding should be removed from the docket and considered closed for all purposes. With respect to whether or not another Complaint could or should be filed against the Respondent based on the same or similar facts, the undersigned will reserve judgment on that issue for the time—if and when it occurs—that another Complaint is presented.

ORDER

IT IS HEREBY ORDERED that that the administrative action against Respondent Joshua James Sheldrick's Coast Guard issued documents shall be dismissed and removed from the docket.

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

Done and dated December 15, 2004
New Orleans, Louisiana


JEFFIE J. MASSEY
ADMINISTRATIVE LAW JUDGE
U.S. COAST GUARD