

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

---

UNITED STATES COAST GUARD

Complainant

vs.

LEYRONN K. BROWN

Respondent.

---

Docket Number: CG S&R 07-0358  
CG Case No. 2763392

**ORDER OF REVOCATION**

**Issued: November 6, 2007**

**Issued by: Michel J. Devine, Administrative Law Judge**

This Order is issued in accordance with 33 CFR 20.902(c), which authorizes the issuance of an initial oral decision. The United States Coast Guard initiated this administrative action seeking revocation of the Merchant Mariner's Document issued to Leyronn K. Brown, the respondent in this case. The amended Complaint dated August 23, 2007 alleges that Respondent, a holder of Coast Guard issued credentials, violated 46 U.S.C. 7704(c) and 46 CFR 5.35 by testing positive for Marijuana Metabolites following a pre-employment drug test conducted on May 24, 2006. The Complaint further states that the test was collected by Ricardo

RECEIVED  
MCCORD MARITIME CENTER  
2007 NOV - 7 A 8:26  
BALTIMORE, MD

Garcia of Nowcare, analyzed by Medtox Laboratories, and subsequently verified positive for Marijuana Metabolites by Dr. Hani J., Khella, a Medical Review Officer.<sup>1</sup>

On August 17 and 29, 2007, Respondent filed an Answer in which he admitted to the jurisdictional allegations but denied paragraph 5 of the factual allegations in Amended Complaint concerning the positive test for Marijuana. More specifically, Respondent denies use of drugs and states that an error either occurred at Nowcare or the laboratory with respect to the drug test. Respondent raises two defenses: (1) the social security number contained on the Federal Custody and Control Form (CCF) is incorrect; and (2) he never spoke with Dr. Khella.

An evidentiary hearing was held in Norfolk, Virginia on November 6, 2007. The hearing was conducted in accordance with Administrative Procedure Act, amended and codified at 5 U.S.C. 551-59, Coast Guard Administrative Procedure statute codified at 46 U.S.C. 7702, and the procedural regulations codified at 33 CFR Part 20.

At the hearing, Lt(jg) Kenneth Robert Scott and Ens. Byron Rios entered an appearance on behalf of the Coast Guard. Respondent also appeared at the hearing pro se, without the assistance of professional legal counsel.

After opening statements by both sides, the Coast Guard presented the sworn testimony of four witnesses, including the Respondent and submitted seven exhibits into evidence, which were admitted into evidence. Respondent also testified on his own behalf at the hearing, but did not offer any exhibits into evidence. The witness and exhibit list are contained in Attachment A.

At the conclusion of the hearing, an oral decision was rendered finding the jurisdictional and factual allegations proved. An order of revocation was issued. The findings of fact and conclusions of law may be summarized as follows:

---

<sup>1</sup> The original complaint was executed and served on Respondent on or about July 24, 2007.

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Respondent Leyronn K. Brown and the subject matter of this proceeding is within the jurisdiction of the Coast Guard vested under the authority of 46 U.S.C. Chapter 77.
2. On May 24, 2006, Respondent submitted to a pre-employment drug test. The Respondent provided a urine specimen that was collected, tested initially and confirmatory as positive for Marijuana, a dangerous drug. The positive test result was subsequently verified in accordance with 49 CFR Part 40.
3. Although Respondent's Social Security Number was incorrectly recorded on the CCF, that error did not invalidate the collection, custody, or testing of Respondent's urine specimen.
4. There is no legitimate medical explanation for the positive test result for Marijuana Metabolites, and Respondent failed to provide sufficient evidence to rebut the presumption that he is a user of dangerous drugs that arises under 46 CFR 16.201.
5. The Coast Guard has proved by a preponderance of reliable and credible evidence that Respondent is a user of dangerous drugs under 46 U.S.C. 7704(c) and the underlying regulations.

WHEREFORE,

**ORDER**

**IT IS HEREBY ORDERED THAT** the Merchant Mariner's Document and all other Coast Guard licenses, certificates and documents issued to Respondent Leyronn K. Brown are **REVOKED**.

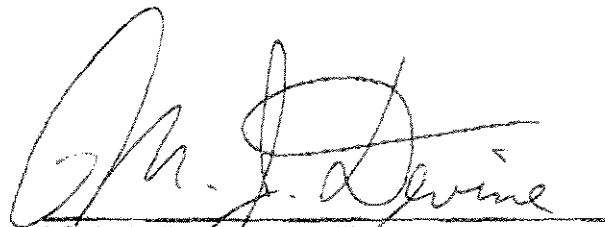
**PLEASE TAKE NOTICE** that, within three (3) years or less, Mr. Brown may file a motion to reopen this matter and seek modification of the order of revocation upon a showing that the order of revocation is no longer valid and the issuance of a new license, certificate, or document is compatible with the requirement of good discipline and safety at sea. The revocation order may be modified upon a showing that the individual:

- (1) Has successfully completed a bona fide drug abuse rehabilitation program;
- (2) Has demonstrated complete non-association with dangerous drugs for a minimum of one year following completion of the drug rehabilitation program; and
- (3) Is actively participating in a bona fide drug abuse monitoring program.

See generally 33 CFR 20.904; 46 CFR 5.901. The drug abuse monitoring program must incorporate random, unannounced testing during that year. Appeal Decision 2535 (SWEENEY)

**PLEASE TAKE FURTHER NOTICE** that Service of this Order on you serves as notice of your right to appeal as set forth in 33 C.F.R. § 20.1001 -1003. (Attachment B).

Done and dated November 6, 2007  
Norfolk, VA

  
**MICHAEL J. DEVINE**  
Administrative Law Judge