

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

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UNITED STATES COAST GUARD  
Complainant

vs.

RICHARD ALBERT CHESBROUGH

Respondent

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Docket Number 2011-0224  
Enforcement Activity No. 4006949

**ORDER STAYING EXECUTION OF SUSPENSION**

**Issued: July 26, 2012**

**By Administrative Law Judge:**  
**Honorable George J. Jordan**

**Appearances:**

**LT Kimberly D. Rule**  
**Sector Columbia River**  
**For the Coast Guard**

**RICHARD ALBERT CHESBROUGH, Pro se**  
**For the Respondent**

## **ORDER STAYING EXECUTION OF SUSPENSION**

This is an administrative proceeding under the Administrative Procedure Act (5 U.S.C. 551 et seq.) concerning the suspension or revocation of a merchant mariner's credential pursuant to 46 U.S.C. §§ 7701 et seq. and its underlying regulations found at 33 C.F.R. Part 20 and 46 C.F.R. Part 5. The Coast Guard initiated this proceeding by filing a Complaint seeking to suspend Respondent's Coast Guard issued Credentials. On July 25, 2012, I issued an Decision and Order suspending Respondent's credentials. However, an e-mail was filed by a letter on July 26, 2012 requesting that I delay the implementation of that Order for a thirty (30) day period in order for the owners to make arrangements for a substitute Captain. The Coast Guard has also made telephonic status inquires as to the status of the Respondent's credential.

### **Analysis**

Coast Guard Regulations provide that having found an allegation proved that I issue an order. 46 C.F.R. § 5.567(a) and 33 C.F.R. § 20.902(a). Those regulations require that under 46 C.F.R. § 5.567(d) that the "order will normally state, *that the credential or endorsement is to be surrendered to the Coast Guard immediately*, if the order is one of revocation or includes a period of outright suspension." (Emphasis in original) However, paragraph (d) contains a further provision that "[i]n cases involving special circumstances, the order may provide for surrender on a certain date." Also subparagraph .20.902(a)(2) of Part 20, Title 33 Code of Federal Regulations states that decision will contain "[t]he date upon which the decision will become effective."

The Commandant has held that an "Administrative Law Judge has authority to tailor the order appropriately in cases involving seasonal activity. See Appeal Decision 1793 (FARIA); Appeal Decision 1883 (TREVOR); and Appeal Decision 1887 (VIGILANT)." Appeal Decision

2475 (BOURDO) (1988).

Finally, it should be noted that paragraph (e) of Section 5.567 states that “[t]he time of any period of outright suspension ordered does not commence until the credential or endorsement is surrendered to the Coast Guard. The time of any period of suspension on probation begins at the end of any period of outright suspension or the effective date of the order if there is no outright suspension”

I will treat this request as a Motion for Stay of Judgment. There are no Coast Guard rules directly on point so I will consider the Federal Rules of Civil Procedure for guidance. 33 C.F.R. § 20.103(c) and FRCP 62. I will stay execution of the Order to surrender until this motion is disposed of. 33 C.F.R. § 20.309(e). The Agency has ten (10) days to respond under 33 C.F.R. § 20.309(d).

#### **ORDER**

**IT IS HEREBY ORDERED** that the **SUSPENSION** ordered in the Decision and Order issued on July 25, 2012 is **STAYED for fifteen (15) days unless an order disposing of this motion is issued earlier.**

**IT IS HEREBY FURTHER ORDERED** that if the Respondent operates the WILLAMETTE QUEEN in violation of its Certificate of Inspection, during this stay, such operation will violate the conditions of probation set out in the Decision and Order

**SO ORDERED.**

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**George J. Jordan**  
**US Coast Guard Administrative Law Judge**

Date: