

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

UNITED STATES COAST GUARD
Complainant

vs.

JESSE ISIAH WYATT
Respondent

Docket Number 2018-0298
Enforcement Activity No. 5756282

DECISION AND ORDER


The undersigned held a hearing in Mobile, Alabama from November 14, 2018, through November 15, 2018. At the conclusion of the hearing, the parties waived their right to file post-hearing briefs, and the undersigned rendered an oral decision. See 33 C.F.R. § 20.902; 33 C.F.R. § 20.710; 33 C.F.R. § 20.1208. The Complaint filed against Jesse Isiah Wyatt (Respondent) contains one allegation of negligence, one allegation of misconduct, and two allegations of violation of law or regulation. See 46 U.S.C. § 7703; 46 C.F.R. § 5.29; 46 C.F.R. § 5.27; 46 C.F.R. § 5.33. The undersigned found the Coast Guard proved the allegation of negligence and the allegation of misconduct but failed to prove the two allegations of violation of law or regulation. The undersigned suspended Respondent's Merchant Mariner Credential (MMC) for 6 months as a sanction for his act of negligence and **REVOKED** his MMC as a sanction for his act of misconduct. The hearing transcript contains the record of the hearing in its entirety, including the oral decision and sanction.

WHEREFORE,

ORDER

IT IS HEREBY ORDERED Merchant Mariner Credential 000476235 and all other Coast Guard licenses, certificates and documents issued to Respondent, Jesse Isiah Wyatt, are hereby **REVOKED**. If he has not already done so, Respondent must immediately surrender all Coast Guard issued credentials to the United States Coast Guard, Sector Mobile, 1500 15th Street, Mobile, AL 36615-1300.

PLEASE TAKE NOTICE service of this Order on you serves as additional notice of your right to appeal as set forth in 33 C.F.R. §§ 20.1001-20.1004.¹ (Attachment B). As discussed at the hearing, the appeal time runs from the date the oral decision was rendered, November 15, 2018. A copy of the transcript will be provided to either party if requested.



Brian J. Curley
US Coast Guard
Administrative Law Judge

Date: November 20, 2018

¹ Respondent was provided with his appeal rights at the hearing.

ATTACHMENT A

WITNESS AND EXHIBIT LIST

Coast Guard Witnesses

1. Christopher Bushhorn
2. Charles Huckabee
3. Joshua Wiggins
4. Spencer Guthrie
5. Ashford Nelson
6. Kevin Green

Coast Guard Exhibits

1. Picture of MMC
2. Report of Marine Casualty
3. Report of Mandatory Chemical Testing
4. Certificate of Documentation
5. Logbook
6. Rose Point Track Line
7. Payroll Sheet
8. Drug and Alcohol Policy
9. Annual Training Follow Up Form
10. Picture of Test Strip
11. Picture of Wheelhouse
12. Physical ALCO 2 Test and Picture of ALCO 2 Test Instructions
13. Picture of Cabinet
14. Picture of Rubbing Alcohol
15. Petition for Involuntary Commitment
16. Complaint
17. Motion for Approval of Settlement Agreement and Entry of Consent Order
18. Notice of Failure to Complete Settlement Agreement
19. Memorandum
20. Letter dated January 2, 2018
21. Letter dated April 11, 2018

Respondent Exhibits

1. No Exhibits Offered or Entered

Respondent Witnesses

1. Debora Wyatt
2. Jesse Isiah Wyatt (Respondent)

ATTACHMENT B

NOTICE OF APPEAL RIGHTS

33 C.F.R. § 20.1001 General.

- (a) Any party may appeal the ALJ's decision by filing a notice of appeal. The party shall file the notice with the U. S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022. The party shall file the notice 30 days or less after issuance of the decision, and shall serve a copy of it on the other party and each interested person.
- (b) No party may appeal except on the following issues:
 - (1) Whether each finding of fact is supported by substantial evidence.
 - (2) Whether each conclusion of law accords with applicable law, precedent, and public policy.
 - (3) Whether the ALJ abused his or her discretion.
 - (4) The ALJ's denial of a motion for disqualification.
- (c) No interested person may appeal a summary decision except on the issue that no hearing was held or that in the issuance of the decision the ALJ did not consider evidence that that person would have presented.
- (d) The appeal must follow the procedural requirements of this subpart.

33 C.F.R. § 20.1002 Records on appeal.

- (a) The record of the proceeding constitutes the record for decision on appeal.
- (b) If the respondent requests a copy of the transcript of the hearing as part of the record of proceeding, then, --
 - (1) If the hearing was recorded at Federal expense, the Coast Guard will provide the transcript on payment of the fees prescribed in 49 CFR 7.45; but,
 - (2) If the hearing was recorded by a Federal contractor, the contractor will provide the transcript on the terms prescribed in 49 CFR 7.45.

33 C.F.R. § 20.1003 Procedures for appeal.

- (a) Each party appealing the ALJ's decision or ruling shall file an appellate brief with the Commandant at the following address: U.S. Coast Guard Administrative Law Judge Docketing Center; Attention: Hearing Docket Clerk; Room 412; 40 S. Gay Street; Baltimore, MD 21201-4022, and shall serve a copy of the brief on every other party.
 - (1) The appellate brief must set forth the appellant's specific objections to the decision or ruling. The brief must set forth, in detail, the --
 - (i) Basis for the appeal;
 - (ii) Reasons supporting the appeal; and
 - (iii) Relief requested in the appeal.

- (2) When the appellant relies on material contained in the record, the appellate brief must specifically refer to the pertinent parts of the record.
 - (3) The appellate brief must reach the Docketing Center 60 days or less after service of the ALJ's decision. Unless filed within this time, or within another time period authorized in writing by the Docketing Center, the brief will be untimely.
- (b) Any party may file a reply brief with the Docketing Center 35 days or less after service of the appellate brief. Each such party shall serve a copy on every other party. If the party filing the reply brief relies on evidence contained in the record for the appeal, that brief must specifically refer to the pertinent parts of the record.
 - (c) No party may file more than one appellate brief or reply brief, unless --
 - (1) The party has petitioned the Commandant in writing; and
 - (2) The Commandant has granted leave to file an added brief, in which event the Commandant will allow a reasonable time for the party to file that brief.
 - (d) The Commandant may accept an amicus curiae brief from any person in an appeal of an ALJ's decision.

33 C.F.R. § 20.1004 Decisions on appeal.

- (a) The Commandant shall review the record on appeal to determine whether the ALJ committed error in the proceedings, and whether the Commandant should affirm, modify, or reverse the ALJ's decision or should remand the case for further proceedings.
- (b) The Commandant shall issue a decision on every appeal in writing and shall serve a copy of the decision on each party and interested person.